SUPREME COURT OF THE UNITED STATES.

No. ~~264~~ 102

THE UNITED STATES, LIBTS AND APPELLANTS,

vs.

THE BARK TERESITA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 291.

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1 United States district court, eastern district of Louisiana.

THE UNITED STATES OF AMERICA
against
THE BARK TERESITA, HER TACKLE, &C., AND CARGO. } No. 7791. In prize. Filed December 16th, 1863.

To the honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana.

The libel of information in prize filed herein by Rufus Waples, attorney of the United States for the eastern district of Louisiana, on behalf of said libellants and of the naval captors in interest, respectfully represents to this honorable court:

First. That the bark or vessel called the Teresita, with the goods, wares, and merchandise laden therein, was captured as lawful prize on or about the 16th day of November, 1863, and brought to this port by the United States steamer Granite City, C. W. Lamson, United States navy, commanding.

Second. That the bark or vessel called the Teresita, with the goods, wares, and merchandise laden therein, were at the time of such capture and are now rightfully subject to such capture, and were and are lawful prize, and as such should be condemned and forfeited to the use of the libellants.

Third. That the said bark or vessel called the Teresita, with the goods, wares, and merchandise laden therein, have been brought to the port of New Orleans, and are now at said port, and within the jurisdiction of this honorable court.

Fourth. That by reason of the premises the said bark or vessel called the Teresita, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, became and are liable to condemnation and forfeiture as lawful prize, and should be condemned and forfeited as lawful prize to the libellants.

That all and singular the premises are and were true, and within the jurisdiction of this honorable court; in attestation whereof, the said attorney exhibits the said vessels papers, and the documents, &c., found on board, together with the testimony of the witnesses, duly taken in preparatorio by the prize commissioners appointed by this honorable court, which are or will be duly filed in the registry of this court.

Wherefore the said attorney of the United States, on behalf of the said United States, prays the usual process and monition of this honorable court against the said bark or vessel called the Teresita, and her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, in this behalf to be made, and that all persons interested in the said vessel and her cargo may be cited to answer in the premises; and that all due proceedings being had therein, this honorable court may be pleased to decree for the condemnation and forfeiture aforesaid, and that the said bark Teresita, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, may be condemned as lawful prize to the use of the said United States.

Dated New Orleans, December 16th, 1863.

RUFUS WAPLES,
United States District Attorney.

Let admiralty process issue as prayed for.
December 16th, 1863.

K. LOEW, *D'y Cl'k.*

2 Filed December 16th, 1863.

3 *Admiralty warrant, issued December 16th, 1863.*

The President of the United States of America to the marshal of the eastern district of Louisiana or to his lawful deputy, greeting :

You are hereby commanded forthwith to seize and into your possession take the bark Teresita, her tackle, &c., and cargo, now libelled by the United States for the causes set forth in the libel pending in the district court of the United States for the eastern district of Louisiana; that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said bark Teresita, &c., and cargo, should not be condemned as prize forfeited to the United States, sold, and the proceeds thereof distributed according to law and agreeably to the prayer of the libellant ; and how
4 you have executed this warrant, that you make return according to law.

[SEAL.] Witness the Honorable Edward H. Durell, judge of the said court, at New Orleans, this 16th day of December, 1863, and the 88th year of the independence of the United States.

K. LOEW, *D'y Clerk.*

Marshal's return, filed January 4th, 1864.

Received 16th December, 1863. Previous legal formalities of seizing having been perfected under legal process, in obedience to the within precept, proceeded to perform the additional legal requisites, by serving copies of the admiralty warrant and libel on board, in the hands of Charles Klarr, and publishing monition in the "Era," a newspaper printed and published in New Orleans, on the 19th, 25th, 31st December, 1863. Returnable January 4th, 1864.

J. Q. A. HOIT, *D'y U. S. Marshal.*

5 *Harbor master's bills, filed December 19th, 1863.*

NEW ORLEANS, *December 1st*, 1863.

Bark Theresa to board of harbor masters and master and wardens, Dr.

To harbor master's dues on 207 tons, at 2 c. per ton	$4 14
Port warden's entrance fee	5 00
	9 14

Received payment.

NEW ORLEANS, *December 1st*, 1863.

Bark Theresa to board of harbor masters, and master and wardens, Dr.

To harbor master's dues on 350 tons, at 2 c. per ton	$7 00
Port warden's entrance fee	5 00
	12 00

Received payment.

6 *Claim of M. Zulaica to vessel, filed December 26th, 1863.*

United States district court, eastern district of Louisiana.

THE UNITED STATES OF AMERICA
against
THE BARK TERESITA, TACKLE, &C., AND CARGO. } No. 7791.

To the Honorable E. H. Durell, judge of the United States district court for the eastern district of Louisiana:

Miguel Zulaica, herein acting as the agent and for the use of Rafael Madrazo, residing in Havana, island of Cuba, intervening for his said principal's interest in the bark Teresita, her tackle, etc., claims that the said bark Teresita belongs to his said principal, Rafael Madrazo, and that the said Rafael Madrazo is the true and bona fide owner thereof, and that no other person is the owner thereof, and he denies that the said bark is lawful prize.

And he further claims and states that the said Rafael Madrazo is a subject of Spain, and is now residing at Havana.

Whereupon the said claimant prays that this honorable court will be pleased to decree a restitution of the said bark Teresita, her tackle,
7 &c., to him, the claimant herein, and otherwise right and justice to administer in the premises.

CYPRIEN DUFOUR, *Proctor.*

Miguel Zulaica declares under oath that the facts set forth in the foregoing petition are true.

MIGUEL ZULAICA.

Sworn to and subscribed before me this 26th Dec'r, 1863.

K. LOEW, *D'y Cl'k.*

Bond for costs, filed December 26th, 1863.

UNITED STATES OF AMERICA,
Eastern district of Louisiana, to wit:

Personally appearing before me, the undersigned, United States commissioner for the eastern district of Louisiana, aforesaid, Miguel Zulaica as principal, and M. Puig, of the city of New Orleans, as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the United States of America in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands
8 and tenements, for the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas, in the matter of the United States *vers.* the bark Teresita, No. 7791 of the docket of the district court of the United States for the eastern district of Louisiana, a claim has been filed on behalf of Miguel Zulaica:

This obligation to be null and void on condition that the said Miguel Zulaica and M. Puig shall abide by the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise, this obligation to remain in full force and virtue.

MIGUEL ZULAICA. [L. S.]
M. PUIG. [L. S.]

Signed and sealed at the city of New Orleans, this 26th day of December, 1863, in the presence of—

K. LOEW, *D'y Clerk.*

9 *Claim of B. Garcia & Bro., filed December* 31*st*, 1863.

United States district court, eastern district of Louisiana, in prize.

THE UNITED STATES
vers.
BARK TERESITA AND CARGO. } No. 7791.

To the honorable the judge of the United States district court, eastern district of Louisiana:

Jos. J. Fernandez, of the firm of S. Fernandez & Co., of this city, herein appearing as agent of B. Garcia & Bro., Mexican subjects, residing in Matamoras, Mexico, now comes into court, and intervening for the said B. Garcia & Bro. for their interest in the cargo of the bark Teresita, claims 7 bales of cotton, marked B G. H., and states that the said B. Garcia & Bro. are the true and *bona fide* owners thereof, and that no other person is the owner thereof, and he denies that the said seven bales of cotton are lawful prize to the United States. And thereupon the said claimant prays that this honorable court will be pleased to decree a restitution of the same to the claimant, and otherwise right and justice to administer in the premises.

GEO. L. BRIGHT, *Proctor.*

Jose J. Fernandez, being duly sworn, says that he is duly authorized
10 by the said B. Garcia & Bro., owners as aforesaid, to make this claim, and that all the allegations in the aforesaid claim are true.

J. J. FERNANDEZ.

Sworn to and subscribed before me this 31st Dec'r, 1863.

K. LOEW, *D'y Cl'k.*

Bond for costs, filed December 31*st*, 1863.

UNITED STATES OF AMERICA,
Eastern district of Louisiana, to wit:

Personally appearing before me, the undersigned, United States commissioner for the eastern district of Louisiana aforesaid, B. Garcia & Bro., by J. J. Fernandez, agent, as principal, and J. J. Fernandez as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, for the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and ad-
11 ministrators, firmly by these presents.

Whereas, in the matter of the United States *vers.* the bark Teresita, No. 7791 of the docket of the district court of the United States for the eastern district of Louisiana, a claim has been filed on behalf of B. Garcia & Bro.: this obligation to be null and void on condition that the said Garcia & Bro. and J. J. Fernandez, shall abide by the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise, this obligation to remain in full force and virtue.

B. GARCIA & BRO.,
By J. J. FERNANDEZ, *Ag't.* [L. S.]
J. J. FERNANDEZ. [L. S.]

Signed and sealed at the city of New Orleans, this 31st day of December, 1863, in presence of—

K. LOEW, *D'y Cl'k.*

12 *Claim of Jose San Roman, filed December 31st, 1863.*

United States district court, eastern district of Louisiana.

THE UNITED STATES *vers.* BARK TERESITA AND CARGO. } No. 7791.

To the honorable the judge of the United States district court, eastern district of Louisiana:

Theodomiro Avendano, herein appearing as agent of Jose San Roman, a Spanish subject, and a merchant residing in Matamoras, Mexico, now comes into court, and intervening for the said Jose St. Roman for his interest in the cargo of the bark Teresita, claims 251 bales of cotton marked R., and states that the said Jose St. Roman is the true and *bona fide* owner thereof, and that no other person is the owner thereof, and he denies that they are lawful prize to the United States. And thereupon the said claimant prays that this honorable court will be pleased to decree a restitution of the same to him, and otherwise right and justice to administer in the premises.

GEO. L. BRIGHT, *Proctor.*

Theodomiro Avendano, being sworn, says that he is duly authorized by the said Jose San Roman, owner as aforesaid, to make this claim, and
13 that all the allegations in the aforesaid claim are true.

T. AVENDANO.

Sworn to and subscribed before me this 31st Dec'r, 1863.

K. LOEW, *D'y Clk.*

Bond for costs, filed December 31st, 1863.

United States district court, eastern district of Louisiana, to wit:

Personally appearing before me, the undersigned, United States commissioner for the eastern district of Louisiana aforesaid, Jose San Roman, as principal, and T. Avendano, as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, for the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas, in the matter of the United States *vers.* the bark Teresita,
14 her tackle, &c., and cargo, number 7791 of the docket of the United States for the eastern district of Louisiana, a claim has been filed on behalf of the said Jose San Roman: this obligation to be null and void on condition that the said Jose San Roman and T. Avendano shall abide by the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise, this obligation to remain in full force and virtue.

JOSE SAN ROMAN, [L. S.]
By T. AVENDANO. [L. S.]
T. AVENDANO. [L. S.]

Signed and sealed at the city of New Orleans, this 31st Dec'r, 1863, in presence of—

K. LOEW, *D'y Clerk.*

Prize commissioners' report and testimony in preparatorio, filed December 31st, 1863.

15 In the matter of the bark Teresita and cargo, a prize.

PRIZE COMMISSIONERS' OFFICE,
New Orleans, December 31st, 1863.

To the hon. the judge of the district court of the United States for the eastern district of Louisiana:

The undersigned, prize commissioners of the honorable court, respectfully report that on the 4th day of December, A. D. 1863, they received notice from Thomas R. S. Marshall, acting master's mate of the U. S. steamer Granite City, of which C. W. Lamson is commander, and prize master of the bark Teresita, that the said Thomas R. Marshall brought with him into this city a certain vessel called the Teresita, and her cargo, as a prize of the United States steamer Granite City; that said bark had been captured on Monday, the 16th day of November, 1863, on or about six o'clock p. m., off the mouth of the river Rio Grande, for violating the rules governing the blockade at present instituted by the United States government, and the said Thos. R. Marshall and a prize crew had been appointed by said Commander C. W. Lamson to bring said prize into this port, and report her as required by the law and the usages in such cases observed.

16 That no papers, passes, documents, or other writings were found on board the captured vessel.

That the witnesses examined report that the captain was not on board at the time of capture, but had gone ashore, and carried the papers with him to Matamoras.

That on the same day the said prize master produced to me two witnesses persons captured with the said bark, to wit, Juan Benguria, mate of said vessel; Juan Marma, stevedore of said vessel; and that the captain of said vessel presented himself for examination on Thursday, December 31st, 1863.

That we examined said three persons in *preparatorio*, upon the standing interrogatories which have been adopted by the honorable court, as the same are found in Upton's work on prize courts, page 479, 3d edition; that said witnesses were examined separately on oath, and not in presence of each other, and unattended by counsel, after each had taken the necessary and prescribed oath to make true answer, &c., which answers were written down as required by law, each one separately to each interrogatory;

17 and when entirely answered the said answers were signed by each witness respectively, as the same are now transmitted to your honorable court.

That we proceeded aboard of said vessel, the Teresita, and examined her condition, and that it was impossible to state whether bulk had been broken or not; that the cargo consists of two hundred and fifty-eight bales of cotton, and that it is impossible to ascertain exactly the nature or quality of the cargo without an unloading and unlivery of the same, which proceeding we now recommend to the honorable court; that we secured the hatches of said bark, with a view to the protection of the cargo until it is unlivered.

That we took possession of the said bark and cargo on the fifth day of December, 1863, and turned over the same to James Graham, esq., U. S. marshal of this court, who is to safely keep the same until further order of the court; all of which, including the deposition of said Thos. R. Marshall, and the answers to the interrogatories taken as above, are now securely sealed, and are hereby submitted to this honorable court, and deposited in its custody.

MICHAEL HAHN,
ROBERT RITCHIE, *Prize Commissioners.*

18 District court of the United States for the eastern district of Louisiana.

In the matter of the bark Teresita and her cargo, a prize.

Thomas R. Marshall, prize master of the bark Teresita, detached from the U. S. steamer Granite City, of which C. W. Lamson is commander, being duly sworn, deposes and says that the bark Teresita was captured on or about the 16th November, 1863, off the mouth of the Rio Grande, for violating the rules governing the blockade at present instituted by the United States government, and said Thomas R. Marshall deposes and says that no papers were captured with the bark Teresita.

And deponent further says that if at any time hereafter, and before the final condemnation or acquital of said captured property, any paper or papers relating thereto shall be found or discovered to his knowledge, they shall be delivered up, or information thereof given to the prize commissioners of this district, or to the honorable court.

THOMAS R. MARSHALL, *Act. M. Mate.*

Sworn to and signed before me this the 4th day of December, A D. 1863.

ROBERT RITCHIE, *Prize Commissioner.*

19 District court of the United States for the eastern district of Louisiana.

In the matter of the bark Teresita and cargo, a prize.

Deposition of Juan Marma, stevedore, a witness produced, sworn, and examined in preparatorio on the 4th day of December, in the year eighteen hundred and sixty-three, at the office of Robert Ritchie, U. S. prize commissioner, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana; the said witness having been produced for the purpose of such examination by Rufus Waples, esq., United States district attorney, in behalf of the captors of a certain vessel called the Teresita.

To the first interrogatory the witness answers:

1. I was born in Spain. I now live in Mexico, and have been there some ten years. I am a Mexican subject, having got naturalized there. I owe allegiance to the republic of Mexico. I am not a citizen of the United States. I am married, and have four children. My family resides in Mexico.

20 2. I was present at the capture of the Teresita.

3. She was captured on the 16th November, 1863, near the mouth of the Rio Grande, and was brought to the port of New Orleans. I don't know whether the Teresita had any commission or letters to make prizes. She had no guns aboard. I don't know the reason for which she was captured.

4. The Teresita sailed under Spanish colors, and had no other.

5. We made no resistance when we were captured, fired no guns; we had none. I heard that the name of the capturing vessel is the Granite City. There were plenty other ships in sight when we were captured. The Teresita was a merchant vessel. She was no ship of war, and had no commission or letters of marque. The capturing vessel appeared to be a man-of-war.

6. I do not know whether the capturing vessel was authorized to act in the seizure.

7. The captured vessel's name is the Teresita; the name of the captain is Augustin Garate. I don't know who appointed him captain. I have

21 known the vessel four months, and the captain over four years. I knew him as a mate on another vessel; he is a Spaniard, and lives in Spain, when ashore; he owes allegiance to the queen of Spain.

8. I cannot tell of what tonnage the Teresita is. The crew consisted of 10 men, I believe; perhaps 11. There were 7 Spaniards and 4 Manilla men. The same crew were on board when she sailed from the last port as when she was taken.

9. I did not belong to the ship's company at the time of the seizure. I was on board of her as stevedore. I had no interest in the vessel or cargo. All the interest I had was in my work, for which I have not yet been paid.

10. I have known the vessel 4 months. Saw her first on the Rio Grande, near the mouth of the river. She carried no guns. She had 11 men aboard when captured. Cannot tell what country build she is. Ever since I know her she has been called the Teresita. Never knew her by any other name.

11. I heard the captain say he was going to Havana on the voyage on which she was captured. The Teresita was bound from Matamoras
22 for Havana on the last voyage, as I heard from the captain. We were at anchor when we were taken. We had aboard 268 bales of cotton when we were taken. From the captain I understood that this cotton was to have been delivered at Havana. The Teresita had not her complement of cargo when she was seized. The cargo was put aboard in November last, in the port of Matamoras. We had moved and drifted on account of bad weather to the spot where we lay at anchor and were taken. The vessel had no goods contraband of war, or otherwise prohibited by law, on board on the voyage on which she was captured.

12. I know nothing about the sh p's papers. I was a stranger, and hired as stevedore to load the vessel with the cotton. She had not yet sailed when she was captured. She lay at anchor at the time of the capture. The vessel was bound from Matamoras to Havana. I heard the captain say so. She had a cargo aboard at the time of the capture which was to have been delivered at Havana.

13. She had cotton and ballast at the time of the capture. The cargo was put aboard in Nov., 1863. She had nothing aboard but cotton and
23 ballast.

14. I don't know who were the owners of the vessel or cargo.

15. I know nothing of the vessel's ever being sold.

16. The cargo was put on board in the month of November, off the mouth of the Rio Grande. I do not know who were the laders, owners, or consignees. There were 258 bales of cotton on board.

17. I know nothing about the papers.

18. I know nothing about the papers.

19. The capture was made on the 16th day of November, 1863, off the mouth of the Rio Grande. I do not know whether the bark was in Mexican or American waters when captured.

20. I know nothing of the papers.

21. Matamoras is not blockaded by the naval forces of the U. S. government.

22. Matamoras is not under an order of blockade by the United States government.

23. I know nothing of the vessel's papers.

24. I do not think the Teresita ever attempted to run the blockade. She is not fit for that purpose.

24 25. I do not know whether the Teresita ever was seized before as a prize.

26. I have sustained a loss of all my services rendered to the bark in loading her, as I have not been paid for doing so, owing to the capture of the vessel.

27. I do not know whether either bark or cargo are insured.
28. I do not know to whom the cargo on board belonged.
29. I do not know where the cargo was raised.
30. The cargo was put on board by means of lighters.
31. I know nothing of the papers belonging to the vessel.
32. I saw no papers of any kind carried away from the bark.
33. Bulk was not broken since the capture.
34. There were no passengers on board. I was on board at the time of capture as stevedore, engaged in loading the vessel, and was retained on board by order of the capturing officer. There were no United States
25 citizens on board, nor citizens of any State or Territory in rebellion to the United States.
35. I do not know anything about the papers. I heard the mate say that the captain took all the papers on shore.
36. The Teresita was at anchor when captured, and had been there since she had arrived direct from Havana about one month and a half previous.
37. I do not know anything of the sale or transfer of the vessel at any time whatever.
38. There were no guns on board, nor anything contraband of war.
39. The bark Teresita had come to Matamoras with a cargo of sugar and raisins, and was loading with cotton for the place whence she set out, which was Havana, as I heard the captain say.
40. I do not know whether she ever sailed in company with any armed vessel or vessels, or under the convoy of any ship or ships of war.
26 41. The Teresita has never, to my knowledge, run the blockade.
42. The Teresita had no commission or letters authorizing her to sail as a privateer or to cruize and make prizes.
43. The vessel concerning which I am now examined never sailed or acted in company with any armed vessel or vessels in cruizing against, pursuing, or seizing as prize, the property of citizens of the United States to my knowledge.

JUAN his ⋈ mark. STARMA.

Sworn to and subscribed before me this 4th day of December, 1863.

ROBERT RITCHIE,
U. S. Prize Commissioner.

27 District court of the United States for the eastern district of Louisiana.

In the matter of the bark Teresita and cargo, a prize.

Deposition of Juan Benguria, mate, a witness produced, sworn, and examined in preparatorio on the fifth day of December, in the year eighteen hundred and sixty-three, at the prize commissioners' office, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana; the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of a certain vessel called the Teresita.

To the first interrogatory the witness answers: I was born at Bermeo, in Spain, where I have always lived except for the last year, during which I have been absent. I am a subject of the queen of Spain. I am not married. I am not a citizen of the United States.

2. I was present at the capture of the vessel.
3. The capture was made off the Rio Grande on the 16th of No-
28 vember, 1863. The captured vessel was taken into the port of New

Orleans. She had no letters or commission authorizing her to make captures. I do not know why the capture was made except that the boarding officer told me he had taken us because he considered the vessel to have been in American waters.

4. The Teresita sailed under Spanish colors. She had no other colors on board.

5. There was no resistance made by the Teresita; no guns fired. The capture was made by the U. S. st'r Granite City. The British frigate Galatea was in sight and alongside the Teresita when she was taken. There were several merchantmen in sight. The Teresita is a Spanish merchantman. She belongs to Mr. Rafael Madrazo, of Havana. The capturing vessel is a man-of-war. I do not know her force, but think she has six guns.

6th. The capture was made by the Granite City. I do not know that she had any commission to make the seizure. The Teresita is not yet condemned.

7. The name of the captured vessel is the Teresita; the captain's name is Augustin Garate. He was appointed captain by the owner, Rafael
29 Madrazo, at Havana. I have known the vessel and the captain since the 15th of September, 1863. The captain took possession of her at Havana. She was delivered to him by the owner, as I think; I am not sure. I know the captain lived in Havana, but I do not know how long; and to my knowledge he is not married. I do not know where he was born. He is a subject of Spain.

8. The tonnage of the Teresita is, to the best of my knowledge, 207 or 307. There were altogether 12 persons on board; eight of them are Spaniards, and the others are natives of the Philipine Islands, but Spanish subjects. They all came on board at the same port, and about the same time, at Havana. They were all shipped by the mate.

9. I was present as pilot at the time of the capture. I have no share or interest in either the vessel or the cargo. I do not know whether any one else on board had any interest in the vessel or cargo.

10. I have known the Teresita since the 15th of September, 1863, at Havana. She had on board some 7 or 8 old muskets about 25 years old. There were 12 men on board before and at the time of the capture of the Teresita. I do not know where the Teresita was built. The name of the captured vessel is the Teresita. She has been so called ever since I
30 knew her. Never knew her by any other name.

11. The Teresita was proceeding in her voyage to Matamoras when she was captured. Her voyage commenced at Havana, and was to have ended either at Havana or New York. At the time of our leaving Havana the cargo consisted of sugar and raisins and ballast, and at the time of capture it consisted of 258 bales of cotton. The cotton was put on board on or about the latter part of October in the place where she was captured. I know of no goods contraband of war to have been on board except the few old muskets above mentioned.

12. The Teresita had a good passport received at Havana from the Spanish authorities.

13. Previous to the last voyage she was accustomed to sail between Havana and Matamoras for cotton. I heard that she had been accustomed to carry cotton to Havana, but I do not know it from my own knowledge. Havana was the last clearing port previous to the capture. We left there on the 22nd of September. The Teresita had sugar and raisins on board when leaving Havana, and cotton when she was taken. Her first cargo was put on board in the middle part of September, and the cotton in
31 the latter part of October. When we left Havana there were between seven and nine hundred packages of sugar and raisins. I can-

not say how many of each. When she was taken she had 253 bales of cotton.

14. The vessel belongs to Rafael Madrazo. I do not know who are the owners of the cargo. Rafael Madrazo lives at Havana; he is a subject of the queen of Spain.

15. I do not know of the bark ever being sold.

16. The cotton was put on board in the latter part of October, 1863, off the Rio Grande. I do not know the name of the laders, owners, or consignees.

17. There were no bills of lading signed for the cotton seized on board.

18. I have in my possession no papers concerning the vessel or cargo. I do not know whether the papers show any one's interest in either vessel or cargo.

19. The vessel was captured on Monday, the 16th day of November, 1863, off the mouth of the Rio Grande, at anchor in Mexican waters, about 5 miles from the shore. I do not know whether any charter was
32 signed.

20. There were no papers found on board. There were none destroyed in any way. The captain knows where all the papers are. I was in command at the time we were captured, the captain being on shore.

21. Matamoras is not blockaded by the United States naval forces.

22. Matamoras is not under an order of blockade by the U. S. government.

23. The papers were examined by a French steamer while we were on our way from Havana to Matamoras and by none others.

24. The bark Teresita never ran the blockade to my knowledge.

25. The Teresita has never been seized as a prize before to my knowledge.

26. I have sustained a loss by the seizure and detention of the vessel of my salary, now due, and for which I have received no indemnity as yet.

27. I do not know whether either vessel or cargo are insured.

28. I do not know to whom the cargo would have belonged had we arrived at our destined port.

29. I do not know where the cotton was raised, but I know I received the cotton under the Mexican flag.

33 30. The cargo was put on board by means of lighters.

31. I do not know where there are any papers concerning the vessel or cargo. I think the captain took them ashore with him.

32. I do not know of any papers being carried away in any manner.

33. Bulk was not broken since the capture.

34. There were no passengers on board when captured, but there was one on the voyage from Havana to Matamoras, who was, I believe, a Mexican, and had no interest in the vessel or cargo. There was nobody secreted on board. There were no United States citizens on board or of any rebel State or Territory.

35. I do not know anything in regard to the papers being true or false, or how they were obtained. I have signed no papers concerning the vessel or cargo, except the lighters' receipts.

36. The Teresita was at anchor when captured, and had always, when on the voyage from Havana to Matamoras, steered as direct as possible for Matamoras.

37 I know of no sale or transfer of the vessel.

38. There were on board some 6 old rusty muskets, about 25 or 30 years old. I know of nothing contraband of war being on board.

34 39. The vessel was bound on a voyage from Havana to Matamoras, and thence back again to Havana. That is all I know of the vessel.

40. The Teresita never sailed under the convoy of any ship or ships of war or any armed vessel or vessels to my knowledge.

41. The Teresita never to my knowledge attempted to run the blockade of any place.

42. The vessel concerning which I am now examined never carried any commission to make prizes or cruise against the persons and property of citizens of the U. S. to my knowledge.

43. The Teresita never to my knowledge sailed in company with any armed vessel or vessels whatever in cruising against or seizing as prize any persons, vessels, or property of citizens of the United States.

T. B. DE BENGURIA.

Sworn to and subscribed before me this fifth day of December, 1863.

ROBERT RITCHIE, *Prize Commissioner.*

35 District court of the United States for the eastern district of Louisiana.

In the matter of the bark Teresita and cargo, a prize.

Deposition of A. de Garate, captain, a witness produced, sworn, and examined in preparatorio on the 31st day of December, in the year eighteen hundred and sixty-three, at the prize commissioners' office, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana; the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of a certain vessel called the Teresita.

To the first interrogatory the witness answers:

1. I was born in Spain; I live in the same place when not at sea; I owe allegiance to the queen of Spain; I am not a citizen of the United States; I am married; my family resides in Spain.

2. I was not present at the capture of the vessel and cargo. I had gone to Matamoras on business connected with the vessel, and while away
36 my vessel was captured.

3. The vessel was captured at night, on the 16th of November, 1863, off the mouth of the Rio Grande, in Mexican waters. The captured vessel had no commission to make prizes. The vessel was brought to the port of New Orleans. I do not know why the vessel was captured.

4 The vessel captured sailed under the Spanish flag and had no other national colors on board.

5. There was no resistance made at the time of the capture. There were no guns fired. The capture was made by a U. S. war vessel. I do not know her name. There were no other U. S. war vessel in sight, but there were a number of merchant vessels near. The captured vessel was a merchantman.

6. I do not know whether the capturing vessel had any commission to act in the seizure. The vessel captured has not been condemned as yet.

7. The name of the captured vessel is the Teresita, A. de Garate captain. I was appointed to the command by the owner of the vessel. His name is Rafael Madrazo, and he resides in Havana. I have known the ves-
37 sel and owner since last September. I took possession of the vessel in September last at the port of Havana, Cuba.

8. The Teresita is of 207 tons burden, Spanish measurement. There were twelve men on board at the time of capture, including the stevedores, who were loading the vessel. The balance belonged to the vessel. They are all Spaniards. I shipped them all in Havana in September last.

9. I was captain of the vessel, and at the time of capture was on shore.

I had no interest in either vessel or cargo, nor had any of the officers or crew.

10. I have known the vessel since last September. I first saw her at Havana. She carried no guns. There was one small gun down in the hold, old and rusty, about a 2 or 3 p'dr. There were 12 men on board at the time of capture. I do not know where she was built. I never heard her called by any other name than the Teresita.

11. The voyage commenced at Havana and was to have ended at Havana. We were bound for Matamoras direct from Havana, and thence directly back to Havana. The vessel had arrived at Matamoras, discharged her
38 cargo there, and was loading her homeward-bound cargo when captured. The vessel had as cargo, when she first set out on her voyage, sugar and raisins, and had on board when captured 258 bales of cotton. The vessel commenced loading this cotton on the 16th of October. On her last voyage the vessel had nothing on board contraband of war.

12. The vessel sailed direct to Matamoras from Havana, which place was from where the vessel last cleared. I know nothing of the vessel previous to my taking possession of her. The vessel sailed from Havana on the 22d day of September.

13. The vessel carried at the time of her first setting sail on her last voyage a cargo of sugar and raisins, which had been discharged at Matamoras, and she had on board, for Havana, 258 bales cotton when captured. It was loaded in the months of October and November, 1863.

14. The owner of the vessel was Rafael Madrazo, a Spanish subject living at Havana. The outward cargo was owned by a number of parties in Havana. It was taken on freight. 251 bales of the cotton now on board belongs to Jose San Roman, and seven to Bernardino Garcia. San Ro-
39 man is a Spaniard and Garcia a Mexican, I believe. They both live in Matamoras, Mexico.

15. I know of no sale or transfer of the vessel.

16. The lading found on board at the time of the capture was placed there in the months of October and November, 1863, off the mouth the Rio Grande in Mexican waters.

17. There were two sets of bills of lading signed for the cargo seized. They were entirely true and fair. One set for the 251 bales of cotton and the other for the 7 bales. I have one of each set. There were four of each, and the others were delivered to the parties interested.

18. I have papers in my possession showing the interest of the parties I have named in both the vessel and the cargo. There are amongst them the register and other papers belonging to a vessel on a regular voyage from Havana to Matamoras and back.

19. I cannot state exactly the degrees of latitude and longitude in which the vessel was captured. It was on Monday, the 16th day of November, 1863, at about 6 o'clock p. m., in Mexican waters, off the mouth of the Rio Grande. There was a charter-party signed for the voyage on which we were taken. I have it amongst the other papers.

40 20. I have all the papers belonging to the vessel which were on board when we left Havana. There were none destroyed in any way.

21. The port of Matamoras is a Mexican port, and I had nothing to do with any blockaded port. I discharged my cargo in Matamoras.

22. The vessel made no attempt to enter any blockaded port. There was no notice endorsed on any of the ship's papers referring to a blockade.

23. The register of the vessel was examined by a French man-of-war off Matamoras, as also the cargo, and was not examined by any other vessel.

24. The Teresita never attempted to run the blockade of any port.

25. The Teresita has not been seized before since I have been captain. I do not know whether the vessel was ever seized before that time.

26. I have sustained a loss in time, in the detention of the vessel, as also my loss in personal effects and in many other ways.

27. The cargo was insured; the vessel was not.

41 28. The names of the consignees of the cotton to be delivered at Havana will be found in the bills of lading, for I do not remember their names.

29. The cargo was bought in Matamoras by the owners. I do not know where it was raised.

30. The cargo was put on board by means of Mexican lighters.

31. I have in my possession nearly all the papers relating to the vessel and cargo which belong to the vessel. There are also some in Matamoras and Havana.

32 I carried all the papers belonging to the vessel to the Spanish consul and those of the cargo to the consignees at Matamoras.

33. I do not know whether bulk was broken since the capture, but I believe not.

34. There was one passenger on board on the voyage from Havana to Matamoras. He was a Mexican citizen; his name I do not know. We called him Mr. Victor. He had no interest in the vessel or cargo. We landed him at Matamoras. There were no persons secreted on board.

35. All the papers belonging to the vessel are entirely true and
42 fair. In my capacity as captain I have signed papers relating to the cargo.

36. The Teresita went to Matamoras direct from Havana, and had there discharged her cargo, and was reloading for Havana when captured.

37. I know of no sale or transfer of the vessel.

38. There was nothing contraband of war on board. We had an old dismounted two or three pounder in the hold and five or six old muskets on board, which were all useless. I knew they were in the vessel, but I have never seen them.

39. The vessel was to go direct to Havana with the cotton and there discharge it for the benefit of the owners in Matamoras.

40. The captured vessel never sailed in the convoy of any armed vessel or vessels.

41. The Teresita never attempted to run the blockade.

42. The Teresita never carried a commission or letters authorizing her to make prizes.

43. The Teresita never sailed or acted in company or concert with
43 any armed vessel or vessels in any manner or at any time.

A. DE GARATE.

Sworn to and subscribed before me this the 31st day of December, 1863.

ROBERT RITCHIE, *Prize Commissioner.*

(Annexed.)

Letter from captors.

U. S. Sr'R GRANITE CITY, OFF ARANZAS, *November 18th*, 1863.

SIR: I forward you the Spanish bark Teresita, captured by this vessel on November 16th, at the Rio Grande River, Texas. She has, it is said, two hundred and ninety-eight bales of cotton on board. She was at anchor, with the mouth of the river bearing W.SW. in American waters, as the mate in charge of her freely admitted; also that he could have changed her position into neutral waters, if he had been so disposed, as the wind had been favorable for so doing for two days. I also forward the cargo of the
44 schooner "Amelia Ann," captured on the 16th November, twenty-five miles to the northward of Brazos Santiago, Texas, bound from

Havana to Matamoras; when captured, she was but two miles from the land, but as she is unseaworthy and useless, I am forced to forward her cargo, with the exception of the potatoes, which are fast decaying, by the Teresita.

The schooner having been captured on the same day as the barque, the list of officers and crew remain the same. Three of the crew of the Teresita are still in her; the balance of them, as well as the commander and the crew of the Amelia Ann, will be sent to New Orleans per U. S. S. Circassian, now daily expected here.

Enclosed please find prize lists of officers and crew at the above capture, also papers found on board schooner Amelia Ann. No papers were found on board the Teresita.

I remain, very respectfully, your ob't serv't,

C. W. LAMSON, *Com'd'g.*

To JUDGE *of the U. S. district court, New Orleans.*

45 *Letter from Spanish consul at N. O., filed January 2nd, 1864.*

Hon. Judge Durell, U. S. prize court:

HONORED SIR: The Spanish consul directs me to ask respectfully from you some information. The Spanish bark Teresita, which arrived here yesterday, was made a prize in November last at Matamoras Bay, by the U. S. st'r Granite City. Her pilot is on board, and the consul wishes to know whether he will be kept there as a prisoner or placed at liberty, and in the first case if you can grant him a permit to come to-day to her Catholic Majesty's consulate, to give his declaration and make the due protest. Should your honor think that said protest can be useful to you in giving a decision on this case, the Spanish consul will have the greatest pleasure in sending you a copy of it as soon as it is made.

The crew of said Spanish bark the Teresita arrived in this city some time ago, and the consul requests your honor to answer whether they can be sent on board the Teresita or not, for if that cannot be done, he will have them sent to Havana or to some other Spanish port.

Finally, the consul most respectfully requests your honor to let
46 him know what is the day appointed for the examination of this case in your honor's court, and begs that the declaration of an eye-witness be admitted by your honor.

Another Spanish subject, a supercargo on board the prize schooner William, is on board the U. S. steamer Tennessee. Will he be kept as a prisoner or put in liberty? The consul having to make the protest and perform some additional formalities this very day, your honor will put him under many obligations by giving me an immediate answer to the different points embraced in this letter.

I am, most respectfully, your honor's obedient and humble servant,

E R. TORIBIO,

Secretary to the Spanish consulate.

Order to open sealed papers, from minutes of January 5th, 1864.

UNITED STATES
vers.
BARK TERESITA, &C. } No. 7791.

On motion of the dist. att'y, ordered that he have leave to open the sealed papers on file in this cause.

47 *Order cause fixed and notices, from minutes of Jan'y 5th, 1864.*

UNITED STATES
vers.
BARK TERESITA AND CARGO. } No. 7791.

By consent of the district attorney and Geo. L. Bright, esq., it is ordered that this cause be fixed for trial on Wednesday, 13th inst., at 10 a. m., and that all other claimants be notified hereof.

Notices to attorneys, issued January 5th, 1864.

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
BARK TERESITA, &C } No. 7791.

To C. Dufour and D. Augustin, esq'res:

You are hereby notified that the above cause has been assigned for trial on Wednesday, 13th inst., at 10 a. m., by order of court.

K. LOEW, *D'y Cl'k.*

N. O., January 5th, 1864.

Marshal's return.

48 Received January 6th, 1864, and served personally on the within-named attorneys January 7th, 1864.

D. CHRISTIE, *Dep'y U. S. Marshal.*

Appointment of att'y for captors, from minutes of Jan'y 5th.

UNITED STATES
vers.
BARK TERESITA, &C. } No. 7791.

It is ordered by the court that D. Augustin, esq., be appointed attorney to represent the captors in this case, and that he be duly notified hereof.

Notice to attorney, Jan. 5th.

United States district court, eastern district of Louisiana.

UNITED STATES
vers
BARK TERESITA. } No. 7791.

To D. Augustin, esq.:

Please to take notice that you have this day been appointed attor-
49 ney to represent the captors in this case. By order of court.

[SEAL.]

K. LOEW, *D'y Cl'k.*

N. O., Jan. 5th, 1864.

Marshal's return.

Received 6th January, 1864, and served personally on D. Augustin, esq., January 7th, 1864.

D. CHRISTIE, *Dep. U. S. Marshal.*

Hearing and continuance, from minutes of Jan. 13th, 1864.

UNITED STATES
vers.
BARK TERESITA AND CARGO. } No. 7791.

This cause came on this day for trial, Rufus Waples, district attorney, for

libellants, Geo. L. Bright and C. Dufour for claimants. And the pleadings having been read, the district attorney offered in evidence the admiralty warrant, monition, and marshal's return, the testimony taken in pre-
50 paratorio, and the report of the prize commissioners. The claimants with leave of the court offered documents now filed and marked A, B, C, D, E, F, and G. The district attorney thereupon asked for leave to furnish further proof, and argued in support of his application, and after hearing the argument of the claimants in opposition to said motion—

It is ordered by the court that further proof be furnished by the United States with regard to the position of the Teresita at the time of her capture, for which purpose a delay of twelve days from this date is allowed them.

Document "A," filed January 13th, 1864.

Digo yo, Agustin Garate, capitain de la fragata Espanola Teresita, que se halla anclado en este puerte proximo a hacer viage al de la Habana que he recibido a bordo de dicho buque de Don Jose San Roman, 251, dos cientos cincuenta y una pacas algodon en Rama pesando en junto 116,700 lbs., ciento diez y seis mil setecientas libras; asegurado por £8,170. Ocho
51 mil ciento setenta libras esteriinas bajo poliza flotante que tienen abierta los S'es F. de Lizardi y C'a del com'o de Londres, de que me doy por entregado a mi entera satisfacion en los mismos terminos, llegado de que sea a salvamento con el dicho buque, me obligo a entregarlo en el puerto, o en el que se diere por complido mi registro a D'n Genaro del Regato del com'o de la Habana, quien verificada mi fiel entraga me ha de satisfacer por flete y conduccion a razon de $2\frac{3}{4}$ c. Dos y tres cuartos centavas por libra y 5 per cent. capa a cuyo debido complimiento obligo mi persona y bieno, scgun practica y ley de comercio, firmando 4 cuatro de un tenor para cumplir uno.

Matamoras 16 diez y seis de Noviembre, 1863. Ignoro peso y no respondo de rotura de abrigo o cuerda o avercia beja.

A. DE GARATE.

Document "B," filed January 13th, 1864.

Factura de 7 siete pacas de algodon que en la fragata Espanola Teresita remitimos p'r la Habana, a la consignacion de los S'res Timenes
52 Sob'o y C'a :

B. G. H. 7. Siete pacas de algodon con peso de 3,163 tres mil ciento sesenta y dos libras, at 33 c..... $1, 043 39

Gastos :

Thos de esportation 1 c. on 3,162.....	$31 62	
Acarreto a la Boca 20'd paca.....	17 50	
Alizo abordo.....	17 50	
Certificamos de fac'te C. y espanol.....	6 00	
		72 62
		1, 116 01

Matamoras, Nov'r 16th, 1863.

B. GARCIA & CO.

U. S. CONSULATE, *Matamoras, Nov.* 17, 1863.

I, the undersigned, consul of the U. S. of America for Matamoras and the dependencies thereof, do hereby certify that on this day personally appeared before me B. Garcia & Co., subscribers to the above invoice, who declared

that they shipped the above-mentioned seven bales of cotton by the Spanish ship Teresita, as Mexican property.

In testimony whereof, witness my hand and seal of this consulate the day and year above written.

[SEAL.]

L. PEIRCE., JR., *U. S. Consul.*

53 *Document "C," filed January 13th, 1864.*

El vice consul de su Magstad Catolica en Matamoras:

Certifico que a salido de este puerto para el de la Habana de la barca espan'a Teresita su capitan Dn. Augustin Garate, se halla esta ciudad y sus inmediaciones libras de toda peste y epidemia contagiosa, preservandose de qualesquiere otras insolubres; como asi mismo que el referido capitan pasageros se encuantran un estado de salva completa.

En fe de lo cual libre la presente patente, autorizada con el sello de este vice consulado en el puerto de Matamoras, a los diez y siete dias del mes de Noviembre de 1863.

Nota no hay junta de sanidad.

[SEAL.]

DIMAS DE TORRES VELASQUEZ,
El Vice consul.

Vale dos pesos.

54 *Document "D," filed January 13th, 1864.*

Nota de los efectos que tengo embarcados abordo de la fragata Espanola Teresita, su capitan Augustin Garate con destino el puerto de la Habana a consignacion de Don Genaro del Regato de otho puerto, a saber:

[R.] 306. Trescientos seis pacas algodon limpio pesando en junto 141,360 lbs. ciento cuarenta y un mil trescientas sesenta libras castellanos y declaro que no contienen otra cosa que lo espresado.

Matamoras, Noviembre 17 de 1863.

Por JOSE SAN ROMAN,
FULGENCIO SAN ROMAN.

El abajo suscrito vice consul de Espana en Matamoras: Certifico que este buque fen teonado en la nocha del quince de este mes por un vapor de guerra de los Estados Unidos quien se lo evo sen saberse su destino. Nada hay que pueda servir de acusacion contra otro bes que pens se encontraba en esta rada cargando de algodon despuis de haber venido derectamente de la Habana a este puerto.

Matamoras, 23 de Nov'bre de 1863.

DIMAS DE TORRES VELASQUEZ,
El Vice Consul de S. U.

55 Factura de las siguentos efectos que los que suscriben embarcan en la fragata Espanola Teresita su Capitan A. Garate con destino p'a el puerto de la Habana y a la consignacion de los S'res Timenes Sob'o y Ca., a saber:

B. G. H. y B. G. H.—B. 21. Veinte y unos pacas adgodon limpio presando en j anto bruto 3,552 nueve mil quincientos cincuenta y dos libros castellanos y declaramos que los bultos mo contienen otra cosa que las espresado.

Matamoras, Nov'r 16 de 1863.

B. GARCIA & CO.

Document "E," filed January 13th, 1864.

Manifiesto g'ral de las mercancias que con destino al puerto de la Habana conduce el Capitan Agustin Garate en la fragata Espanola Teresita, consignada a J. Rafael Madrato.

Marcus [R.] Numero de bultas 304 zrecientas cuatro, peso total, 141,360, ciento cuarenta y una trescientas sesenta ilibras, cluse de los bultos pacas, cluse de mer' algodon, remitentes Jose San Roman, consignatario Genaro del ragato B. G. H. y B. G. H.—E. 21 viente y una, bultas, peso total 9,746, nuevo mil setecientos cuarentos y seis libras Cluse de los bulos pa-
56 cas cluse de mer's algodon. Remitentes B. Garcia & Co., consignatorio Timenes Sob'o y Ca.

Matamoras, Nov're 17 de 1863.

A. DE GARATE.

En abajo suscrito vice consul de Espana en Mat'as: Certifico que la barcas Espanola Teresita Cap'n Garate fue tonada el dia quince en la noche por un vapor de guerra de los Estados Unidos con la que desaparcio sen saberse su destino y renubo. D'ho capitan se hallaba en esta ciudad distante treinte y seis millar de la boca del Rio Grande a cerrando el registro y despacha don de papeles cuando recibio la noticia de aquel sereceso por el que ha protestado y se derige ahora Nueva Orleans a ver si encuentra alle su buque.

Matamoras 23 de Noviembre de 1863.

[SEAL.] DIMAS DE TORRES VELASQUEZ.
El Vice Consul de S. M.

57 *Document "F," filed January 13th, 1864.*

El adm'or y contador de esta aduana maritima y fronteriza: Certificamos que con el permiso prevenido y formalidades de estilo se ha despachado en esta aduana la fragata Espanola Teresita que ha cerrado su registro el dia de hoy para hacer viage al puerto de la Habana su Capitan A. Garate ha pagado sus derechos y no deja responsabilidad alguna. Y para constancia le espedimos el presente en la H. Matamoras, a 17 de Noviembre de 1863.

FRANCO FUENTES.
FAVIAS.

PEDRO TOCTA CECORRA.
C. Capitan de la Fragata Espanola Teresita.

Document "G," filed January 13th, 1864.

Jose G. Solar, teniente coronal, commandante militar y capitan de puerto: Certifico que la barca Espanola Teresita, su Capitan Don Agustin Garate que se hallaba anclada en este puerto y surta en la demarcacion de a guas Mejicanas que apresada la noche del dia diez y seis de Noviembre del presente ano por un buque de guerra de los Estados Unidos de America, ignorandose la causa motivo de dicho aprension. Y a pedimento del cap-
58 itan del espresado buque libro la presente por duplicado en la boca del Rio Bravo a los viente y cuatro dio, del mes de Noviembre de milo ochiocientos sesenta y tres.

[SEAL.] JOSE G. SOLAR.

SALVADOR LOPEZ, *Secretario.*

Appointment of attorney for captors, from minutes of January 13th, 1863.

UNITED STATES
vs.
BARK TERESITA, &C. } No. 7791.

It is ordered by the court that A. M. Buchanan, esq., be appointed attorney to represent the captors in this case, and that he be duly notified thereof.

Notice to attorney, issued January 13th, 1864, and revoked January 14th, 1864.

UNITED STATES
vs
BARK TERESITA, &c. } No. 7791.

The appointment of A. M. Buchanan, esq., as attorney for the cap-
59 tors, having been made through inadvertance and in error on yester-day, an attorney being already appointed under date Jan'y 5th inst., it is ordered that A. M. Buchanan's appointment be revoked and annulled.

Rule on district attorney, from minutes of January 14th.

UNITED STATES
vs.
BARK TERESITA, &c } No. 7791.

On motion of Cyprien Dufour, att'y for the bark Teresita, and Geo. L. Bright, att'y for the cargo, it is ordered by the court that the district attorney show cause, on Monday, January 18th, 1864, at 10 a. m., why the order herein made for further proof should not be rescinded and annulled on the ground that it was improvidently made.

Marshal's return.

Received January 16th, 1864, and on the same day served a copy of the within rule on Rufus Waples, esq., dist. att'y, personally.

JOHN M. WYMAN, *Dep. U. S. Marshal.*

60 *Order rule continued, from minutes of January 18th, 1864.*

UNITED STATES
vs.
BARK TERESITA, &c. } No. 7791.

By consent of counsel, it is ordered that the rule herein returnable to-day be continued till Monday, 25th inst., at 10 o'clock a. m.

Order rule submitted, from minutes of January 25th, 1864.

UNITED STATES
vs.
BARK TERESITA, &c. } No. 7791.

The rule taken by the claimants on 14th inst. came up this day, Geo. S. Bright and C. Dufour for pl'ffs in rule; dist. att'y and D. Augustin for defd'ts in rule; and after hearing argument the court took time to advise.

61 *Notices to take testimony, issued February 3d, 1864.*

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
BARK TERESITA, &c. } No. 7791.

To Geo. L. Bright and C. Dufours, esq'res:

You are hereby notified that the libellant and captors will take evidence in this cause on Thursday, 4th inst., at 6 p. m., in the clerk's office of this court.

N. O., Feb'y 3d, 1864.

[SEAL.]

K. LOEW, *D'y Clerk.*

Marshal's return.

Received February 3d, 1864, and served notice personally on Mr. Geo. L. Bright, and left notice with Mr. F. Freret, clerk for Mr. C. Dufour.

New Orleans, Feb'ry 3d, 1864.

JOHN M. WYMAN, *Dep. U. S. Marshal.*

62 *Testimony, filed February 4th, 1864.*

Examination of witnesses on order for further proof.

Present: District attorney, Geo. L. Bright, D. Augustin.

Counsel for claimants reserves all exceptions to this deposition, and especially to further proof.

Capt. C. W. Lamson, U. S. navy, being sworn, says: I am in command of the U. S. st'r Granite City, which captured the Teresita. At the time of her capture she was lying in American waters, with the mouth of the Rio Grande bearing W.SW. (by compass.) The variation is 9 degrees easterly. I sent my second executive officer on board the Teresita, who took the bearings. He reported to me that the mouth of the river was bearing so-and-so from the Teresita by the compass.

(Objected to as hearsay.)

I was some 60 or 70 yards from the Teresita, and near enough to see with my glass what was going on. I could see all, even without a glass. I saw the executive officer take the bearings. At the time there was no question between the officers of the Teresita and the executive officer

63 about the bearings.

(Objected to as hearsay.)

The mate of the Teresita in command came aboard of the Granite City. The mate was the only officer on board the Teresita at the time. I sent for my cook to interpret the Spanish language, and through the cook asked him if the Teresita was not in American waters.

(Objected to.)

The mate said, Yes.

(Objected to.)

In the presence of the mate, I got a navigator, upon which the said mate made tracings, and then put down on the book or navigator "south 70 west," as the bearing of the river from the Teresita.

(Objected to on the ground that the best evidence is the production of that paper.)

The mate said he had anchored in Mexican waters previously, but his vessel had drifted to the place where she was taken; that his anchor and chain were too light. I then asked him if the wind had not been favorable to him to go back into Mexican or neutral waters. He shrugged his shoulders and replied he did not know; that he was not the captain of the vessel; that the captain was ashore, and he could not remove the Teresita from her position without the captain's orders. The mate told me that he had two opportunities to go back into Mexican waters if he had felt disposed to do so.

64 There was a British frigate lying at anchor on the line, for the purpose of showing other vessels where the line was; this is my supposition. This was so evident that all the other British vessels were lying to the south of that frigate. The Teresita was distant about 2 miles from the most perceptible land mark on either bank of the river I have seen schooners and lighters go in and out. From that point, where the schooners went in and out, I drew a direct line, and found that the Teresita was north of that line. She was a short quarter of a mile north of that line. There is a light-house there, I believe. In my opinion, the Teresita was about two miles

from the shore when captured. It was on a very clear sunshiny afternoon. I believe that the British frigate was placed on that line to point out the dividing line. Any seaman would naturally suppose that there were at least 40 or 50 vessels of different nations lying to the south of the frigate. The name of this British frigate was the Galathea, of about 60 guns.

Cross-examined.

I don't speak Spanish and don't understand it. I have studied the language at school, but do not understand it now. I picked up some
65 words. The mate tried to speak to me in English, but he could not. I suppose him to be a Spaniard. He could make himself understood in a few expressions only; that is, he understood enough to say that when I said "south 70 west," he said "No; 85." I had arrived there about an hour or so before I captured the Teresita. I came from the Brazos that day. I was about 8 miles off. Captured a schooner at the mouth of the Brazos that day. I have never been to the Rio Grande before. I never examined the channel, only the chart of it. I judged of the channel by seeing lighters come in and out; that is the only means I had to judge of it. I can't say whether the channel changes at the mouth of the Rio Grande; I know nothing in regard to it. It required to take the bearings to ascertain whether the Teresita was in American or neutral waters. I did not warn the officer in command of the Teresita that he was in American waters before I captured his vessel.

Being asked what was the object of the Teresita for being in American waters, says: I don't know, and did not ask the reason.

Being asked if it was her object to run into a blockaded port, says: I don't know. I don't recollect, but should judge the Teresita was in 5 or 6
66 fathoms water when captured. I took the bearing of my compass when I was lying very near her. When a vessel is in sight of land it is usual for her to take her bearings by the compass. I never took the bearings from the point where the English frigate was lying. I judged it only by sight, as any seaman can do at a short distance. I took the bearings from what I thought was the middle of the river. I think there was a bark nearly on the same line with the Teresita. My officer wanted to take her, but she had but very little cotton on board, and she could have been hardly towed out. She may have been a point easterly of the Teresita, to the best of my recollections.

Being asked if she was not north of the Teresita, says: No, I don't think she was. I examined both the vessels, through my executive officer. I think I examined the other vessel before the Teresita. She was a Spanish bark. I believe I arrived there at an equal distance between the two vessels. I think I reached the other vessel before the Teresita, but that the officer who had charge of the boat would better recollect his proceedings. I have got the book in which the mate of the Teresita wrote south 70 west, but the entry may have been rubbed out. It was in pencil mark.
67 According to what the mate says now, south 85 west, he would have been south of the English frigate's line, in Mexican waters.

Re-examined.

I found no contraband goods of war on the Teresita. I did not search her. I did not go on board of her. Capt. Gillis, of the Ossipee, is the commander of the 2d division, to which I belong; and I had reported to Comm. Bell, as commander of the squadron in the absence of the admiral. There was no other American vessel in sight or signal distance at the time of the capture.

Re-cross-examined.

The mate of the Teresita told me the captain was on shore when I captured him. All I based the capture upon is that she was in American waters.

C. W. LAMSON.

John Seely, sworn, says: I was on board the Granite City as captain's cook. I saw the mate of the Teresita when he came on board of the Granite City. I speak Spanish. The mate said his vessel was in American waters when she was captured. I asked him upon the orders I received from
68 Capt. Lamson. The mate said that he did not move from his position because two American men-of-war had seen him in the same place two days before and did not disturb him, and therefore he thought he was all right. He then told me to tell the captain if he would let him go he would next morning get up his anchor and leave, and that his own captain was sick, ashore. Captain Lamson told me to ask him again if he was aware that he was in American waters. The mate repeated what he had said before, and that he knew he was in American waters. Capt. Lamson asked the mate to show where he supposed his vessel was. The mate showed him on a book, but I did not see what mark he made because I was then standing aside. I have seen the English frigate. She was very close to the Teresita, about half a mile, I think. The mate kept begging the captain to let him off for a considerable time, and said he would leave the American waters next morning.

Cross-examined.

The mate told Capt. Lamson that his anchor and chain had dragged there, and that the vessel was loaded, and was going off the next day.
69 I was not aboard the Teresita.

Re-examined.

State what the mate said about having favorable winds to get off from there.

(Objected to as leading.)

The mate stated that he had fair winds for the last two days, but thought there was no harm in the place where he was.

What did the mate say to you about the winds, and his leaving the position where he was captured?

All he said about winds was that he had had good winds for two days to go out of the place where he was.

Re-cross-examined.

I cannot say whether we got to any other vessel before we came to the Teresita. I was attending to my duty below. I don't know whether any other vessel was examined before the Teresita. I don't know that the Granite City stopped before she took the Teresita. I cannot tell that the Granite City made any stoppages after she had taken the Teresita.

JOHN SELEY.

70 *Notice to take testimony, issued February 13th, 1864.*

United States district court eastern district of Louisiana.

UNITED STATES
vs.
BARK TERESITA, &c. } No. 7791.

Mr Geo. L. Bright:

Take notice that the district attorney will take further evidence in this cause on Monday, the 15th inst., at 5 p. m., in the clerk's office of this court.

[SEAL.] February 13th, 1864.

K. LOEW, *D'y Clerk.*

Marshal's return.

Received 13th February, 1864, and on the same day served copy of notice on Geo. L. Bright, personally.

N. O., Feb'ry 13th, 1864.

M. EGAN, *D'y U. S. Marshal.*

71 *Testimony, filed February 16th, 1864.*

Examination February 15th, 1864, at 5 p. m.

Present: District Attorney and D. Augustin.

Arthur H. Atkinson, being sworn, says: I was the executive officer of the Granite City at the time of the capture of the Teresita. I went aboard that vessel and took her bearings, and asked the officer of the Teresita to take her bearings also. He did so. The Teresita bore west southwest by compass. The officer of the Teresita gave me the same bearings, and there was no question between him and me about her bearings. The mate was in command of the Teresita at the time. He acted and spoke as the man in command at the time. The captain of the Teresita was not then aboard. I asked him whether he was aware that he was in American waters. He answered he knew he was. I asked him if he had taken all the cotton in. He said he had taken all in there. Asked him if it was Mexican or Texas cotton. He said it was Texas cotton. The captain of the Granite City asked this mate to point out where his vessel was; he did point out her position on the navigator now produced, which shows the mate's

72 mark in pencil to be south 72° . After I had returned on board the Teresita I requested the mate take the bearings afresh. He then gave me the bearings west southwest, in presence of one of the officers. I asked the mate why he did not go into Mexican waters, as he knew he was in American waters, and the wind being favorable at that time. He replied that the captain was ashore, and he could not change the position of the vessel without his orders; and if I would not capture him that he would take her across into Mexican waters that night on his own responsibility. I observed the British frigate lying at anchor. I observed that all the British vessels were lying to the south of that frigate; should consider this English frigate lying there to show the line of the American and Mexican waters. I drew the line to the north side of the river, to the northern edge of the channel. The Teresita was 13 degrees in our waters. The true bearing of that line must be east and west. I was guided in ascertaining the channel of the river by seeing the lighters and schooners go in and out. The Teresita must have been nearer to one half than to one quarter of a mile in American waters when captured. When I say "west southwest,',

I mean 66 degrees; there is 11 degrees to a point; the variation is $\frac{3}{4}$
73 to a point. 66 degrees would place the Teresita 15 degrees in American waters, allowing her the variation of nine degrees.

A. H. ATKINSON.

John Read, paymaster of the Granite City, sworn, says: I recognize the navigator now shown me in which the mate of the Teresita made a memoranda in pencil-mark about the bearings of the Teresita. I saw the mate make this mark. It is S. 72°. This mark was made by the mate at the captain's request. Because the mate speaking only Spanish, and hardly understanding English, the captain requested him to mark himself in that book the position of the Teresita. The mate did so, and marked S. 72°. I should say that the Teresita was about half a mile in American waters, judging from the position of the English frigate that pointed out the dividing line of the American and Mexican waters.

JOHN READ, *A. A. Paymaster.*

74 *Rule for a survey, from minutes of February 16th, 1864.*

UNITED STATES
vs.
BARK TERESITA, &c. } No. 7791.

On motion of the district attorney, it is ordered that a survey of the bark Teresita be held by Jno. M Wyman and G. Hollander, d'y marshals, under the direction of the prize commissioners, to ascertain whether the said bark has not on board a brass gun, or other contraband goods of war, and that they report to this court within the shortest possible delay the result of their examination.

Order cause fixed for trial, from minutes of February 16th, 1864.

UNITED STATES
vs.
BARK TERESITA, &c. } No. 7791.

On motion of Geo. L. Bright, of counsel for claimants, ordered that this cause be assigned for trial on Saturday next, 20th inst., at 10 a. m., and that all parties interested be notified hereof.

75 *Notices of trial, issued February 16th, 1864.*

United States district court eastern district of Louisiana.

UNITED STATES
vs.
BARK TERESITA, &c. } No. 7791.

D. Augustin and C. Dufours, esq's:

You are hereby notified that the above cause has been assigned for trial on Saturday, 20th inst., at 10 a. m.

By order of court.

[SEAL.] K. LOEW, *D'y Cl'k.*

N. O., Feb'ry 16, 1864.

Marshal's return.

Received February 16th, 1864, and on the 17th day of February, 1864,

served copies of the within notice of trial on C. Dufour and D. Augustin, personally.

M. EGAN, *D'y U. S. Marshal.*

76 *Report of survey, filed February 17th, 1864.*

To the hon. district court of the United States for the eastern district of Louisiana:

We, the undersigned, appointed by this hon. court to survey barque Teresita, report the following as the result of their labor: On the 17th day of February, 1864, at the hour of 12½ p. m., we did go on board said barque Teresita, and found under her forecastle by the water casks, an old brass cannon, about 2½ feet in length, and an old carriage belonging to the same.

G. HOLLANDER.
JOHN M. WYMAN.

Sworn to and subscribed before me this 17th Febr'y, 1864.

K. LOEW, *D'y Clk.*

Order dismissing rule, from minutes of February 20th, 1864.

UNITED STATES *vers.* BARK TERESITA, &c. } No. 7791.

In presence of the district attorney, Geo. L. Bright and C. Dufour, esqrs, it is ordered that the rule taken by the said claimants, on
77 14th January, 1864, be dismissed with costs. And upon application now made on behalf of the claimants, it is further ordered that leave be granted them to furnish further proof in this case.

Hearing and submission, from minutes Feb. 20th.

UNITED STATES *vers.* BARK TERESITA, &c. } No. 7791.

This cause came up this day for trial—district attorney for libellant, D. Augustin, for captors, G. L Bright and C. Dufour, for claimants—when after hearing the evidence herein filed on 4th and 16th February, 1864, and the admission of the district attorney now filed, the claimants produced and offered certain documents, named in the affidavit of Capt. Garrate, and purporting to be the ship's papers, which, upon the objection of the district attorney, were ruled out and rejected by the court, in which ruling the proctors for the claimants reserve their bill of exception, and after hearing argument on both sides, the court took time to advise.

78 *Admission by district attorney, filed February 20th, 1864.*

It is admitted by the district attorney that the harbor-master of Matamoras, if present, would testify that the Teresita, at the time of her capture, was in Mexican waters.

District attorney offered in evidence the testimony herein filed on 4th and 16th February, 1864, and book X.

Claimants offer in evidence a number of papers, said to be the ship's papers. Upon the objection of the district attorney these papers are ruled out, to which ruling the claimants reserve their bill of exception. It is admitted by the district attorney that the mate, if present, would swear that the day before the Teresita was captured she was visited by 2 gunboats of the U. S. blockading squadron, and that she was not disturbed, and no objection made against her position.

79 *Affidavit of Capt. Garate.*

United States dist. court, eastern district of La.

THE UNITED STATES
vers.
THE BARK TERESITA AND CARGO.

A. Garate, being duly sworn, deposes and says that he was the master of the bark Teresita at the time she was captured, at her anchorage off the mouth of the Rio Grande, and at the time of the capture he was in the city of Matamoras, Mexico, having left his vessel in charge of the mate, and gone to Matamoras with the ship's papers to obtain a clearance, and all other papers necessary for him to depart on a lawful voyage from Matamoras to Havana; that he left said bark Teresita on 12th November, 1863, she then being and lying in Mexican waters, and took with him to Matamoras—1, the roll or crew list; 2, the royal register; 3, affidavits and the mate's license; 4, the register of all the seamen; 5, the clearance from Havana to Matamoras;
80 and carried them all to the Spanish consul at Matamoras, and exhibited them to him, for the purpose of obtaining from him all necessary documents to proceed on the intended voyage to Havana; that on the 16th November, 1863, and before he knew that his vessel had been captured, he procured at Matamoras the bill of health; had deposited with the Spanish consul his manifest, the royal register, the muster-roll of the ship's company; that on the 17th November, 1863, after having obtained his clearance and necessary documents, he was informed that his vessel had been captured, and he was compelled to remain in Matamoras until the 23rd Nov'r, 1863, having with him his ship's papers; that on that day he went to the mouth of the river for the purpose of embarking for New Orleans, but was not able to do so until the 9th December, when he left for New Orleans, where he arrived on the 20th Dec'r, 1863, with said papers, and immediately deposited the aforesaid papers with the Spanish consul in this city, as is customary.

AUGUSTIN DE GARATE.

Sworn to and subscribed before me this 20th Feb., 1864.

K. LOEW, *D'y Clk.*

81 *Affidavit of mate, filed February 20th, 1864.*

UNITED STATES
vers.
BARK TERESITA AND CARGO. } No. 7791.

J. B. de Benguria, being sworn, says that when the bark Teresita was captured he was on board as the mate of the bark, and the log-book of said vessel was in his custody; that it was not secreted; that none of the capturing crew and captors and prize crew ever made of affiant any enquiry about the said log book, and no other person made him any such enquiry, or demanded said log-book from him; that on his arrival in New Orleans, he carried said log-book to the Spanish consul's office of this city, where it remained from the time of the arrival of the bark in this city until the present time; that the conduct and action of affiant was wholly in good faith, without any desire or intention on his part to conceal said log-book, but, on the contrary, he was not aware that it was necessary for him to call the attention of the captors to the log-book, no enquiry for said log-book having been made of him.

82 Affiant further swears that the log-book now produced is the original and only log-book of the bark Teresita.

JUAN B'TE DE BENGURIA.

Sworn to and subscribed before me this 20th Feb'ry, 1864.
K. LOEW, *D'y Cl'k.*

Order referring to prize commissioner, from minutes of Feb'ry 23rd.

UNITED STATES
vers.
BARK TERESITA, &c. } No. 7791.

Ordered that the record in this case be referred to Capt. Ritchie, prize commissioner of this court, with instructions to make a thorough examination of the evidence, to project upon a map the position of the Teresita at the time of her capture, and to report in open court the result of his examination on the 2nd day of March, 1864, at 10 a. m. It is further ordered that the district attorney and the attorneys for the captors and for the claimants be duly notified hereof.

83 *Marshal's return.*

Received on the 23rd February, 1864, and on the 24th day of February 1864, served copies of the within order on dist. att'y, D. Augustin, Geo. L. Bright, C. Dufour, and Captain Ritchie, personally.
M. EGAN, *D'y U. S. Marshl.*

Copy of royal register, filed Feb'ruary 29th, 1864.

No. 385.] APOSTADERO DE MARINA DE LA HABANA.

Real pasaporte de navegacion mercantil:

Dona Isabel Segunda, por la gracia de Dios y por la constitucion de la monarquia reina de los Espanas:

Por cuanto he concedido permiso al capitan y piloto Don Fernando Diaz, su pagata nombrada "Teresita," de porte de ciento ochenta y cinco toneladas, puedar navegar y comerciar en todos los mares y puntos del globo; por tanto, quiero que constando la pertenencia de la embarcacion, o a otro subdito Espanol, el comandante de marina de la provincia, sus subalternos, o cualquiera otra persona a quien corresponda, concurran a
84 facilitarle lo que necesitare asi por lo respectivo a su armamento, como por lo que mira a su tripulacion, de que debera formarse lista, y se obligara a cindar de su conservacion, y lesponder de sus faltas, segun previenen las ordonanzas de marina, permitiendo sele salir a navegar y comerciar bajo las reglas establecidas.

Y mando a los oficales generales o particulares, comandantes de escuadras y bajelas, a los capitanes generales de los departamentes de marina, y dema autoridades de ella, y otras cualesquiera oficiales o dependientes de la armada; a los capitanes o comandantes generales de provincias; a los gobernadores jefes politicos, jueces y institucias de los puertos de estos dominios, y a todas los demas subditos Espanoles a quienes pertenece o pertencer pudiere, no le pongan embarazo, causen molestia o detencion alguna; antes le auxilien y faciliten lo que hubiere menester para su regular navegacion y legitimo comercio. Y a los vasallos y subditas de reyes, principes y republi-
85 cas amigas y aliadas a los comandantes, gobernadores cabras de sus provincias, plazas, escuadras y bajeles requiro que asi mismo no le pongan embarazo en su libre navegacion, entrada, salida, o detencion en las puertos, a los cuales deliberadamente o por accidente se condujero, y le permitan ejercer en ellos su legitimo comercio, bastimentarse y provense de los necesario para continuarla; a cuyo fin he mandado despachar este pasaporte el cual, firmado por mi y refrendado por el ministro de marina, servira y

tendra fuerza por termino de tres anos, constado desde el dia en que se expidiere, segun constepor la nota que pusiere el referido comandante de marina y matriculas. Dado en Aranjuez a veinte y dos de Mayo de mil ochocientos sesenta y uno. Sello real.

(Firmado) Yo la Reyna, (firmado.)

JUAN DE ZAVALLO.

Y al dorso he halla escrito lo siguiente:

Nota.—Este real pasaporte de navegacion mercantil para todos los mares del globo, No. 385, se expide por mi el infrascrito comandante de marina de esta provincia en el dia de esta fecha, extendido a favor del Capitan Don Fernando Diaz y buque que en el sr expresa; habiendo precedido los requisitos de ordenanza, y con la obligacion de devolverto en el ter-
86 mino senalado, que no debera exceder. Dado en el la Habana, a dos de Agosto de mil ochocientos desenta a dos.

(Firmado) EL MARQUEZ DE ALMEIRAS.

Notas 1o. El capitan de este buque queda advertido de la real orden de 13 de Enero de 1825 en que de prohibe el illicito trafico de negros bozales de la costa de Africa.

2o. Va provista esta patente del sello del pliego de ylustres prevenido en real orden de 29 de Octubre de 1851.

3o. Con arreglo a la real orden de lo de Febrero de 1850, el termino de esta patente debe principiar a constarse des de el dia diez y nueve de Julio ultimo que cumplio la que tenia. Habana, y Agosto 2 de 1862.

(Firmado) ALMEIRAS.

Nota.—Habiendose este buque al pasar revista de inspeccion, ha resultado medir doscientos siete toneladas. Habana, y Febrero 19 de 1862.

(Firmado) ALMEIRAS.

Habiendo prestado en la escribanio de marina del juzgado de esta provincia la correspondiente fianza Don Rafael Madrazo, de este vecindario y comercio, dueno de la barca "Teresita" de esta matricula, se habilita en esta fecha esta real patente No. 385, a favor de Don Jacintio Felipe
87 Larrondo, capitan electo de dicho buque en reemplazo del anterior que ha dejado el mando en este puerto Habana, 6 de Junio de 1863.

El comandante interino,

(Firmado) ANDRES DE FONSECA.

Habiendo prestado la correspondiente fianza en la escribanio del juzgado de esta provincia Don Rafael Madrazo, de este comercio, dueno de la barca "Teresita" de esta matricula, se habilita en este fecha este real patente No. 385, a favor, del nuevo Capitan Don Agustin de Garate y para el mismo buque, en reemplazo del anterior, que ha dejado el mando en este puerto.

Habana, y Setiembre 19 de 1863.

(Firmado) ALMEIRAS.

El consul de S. M. Catolica en esta plaza y su dependencias: Certifico que la que antecede es copia fiel del real pasaporte de navegacion mercantil, No. 385, expedido a favor de la barca Espanola "Teresita," de la matricula de la Habana, y cuyo original ha exhibido en este consulado el capitan de la misma Don Agustin de Garate. Y para los efectos que convengen
88 doy dicha copia que firmo y sello con el de este consulado en Nueva Orleans, a 23 de Febrero de 1864.

El consul de S. M. C.,

[SEAL.] JUAN CALLEJON.

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BARK TERESITA AND CARGO. } No. 7791.

I certify the within to be a true copy of the royal register of the bark Teresita, mentioned in the affidavit of Capt. Garate and offered in evidence by the claimants on the trial of this cause on 20th February, 1864.

Clerk's office, February 29th, 1864.

K. LOEW, *D'y Clk.*

89 *Bill for survey, filed March 2d, 1864.*

UNITED STATES
vers.
BARK TERESITA, &c. } No. 7791.

To survey of vessel on February the 17th, 1864, by order of court:

To G. Hollander	$10 00
Jno. M. Wyman	10 00
	20 00

Report of Captain Ritchie, prize commissioner, filed March 2d, 1864.

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
BARK TERESITA, &c. } No. 7791.

The undersigned, in pursuance of an order addressed to him by the hon. court under date the 23d inst., "to make a thorough examination of the evidence, and project upon the chart the position of the Teresita at the time of her capture," reports that after a very careful examination of the
90 testimony as received, he finds that there is no data found therein which would enable him to project upon the chart in the possession of the court the exact position of the Teresita, and that he has been therefore forced to establish it by approximate comparison of the testimony of those who depose in reference to it.

He finds, upon the evidence given before him as prize commissioner by the captain and the mate of the Spanish bark Teresita, that they both state that at the time of the capture it was dark, and that she was at anchor in Mexican waters.

He then projected her position on the chart used by the captain in navigating his vessel, and found that she was in Mexican waters.

In the testimony of Captain Lamson, of the steamer Granite City, he finds it very confused. It states that the Teresita was but a short quarter of a mile in American waters at the time of capture, distance two miles from the mouth of the river Rio Grande.

He would state, from long experience, he knows it is impossible to get a correct bearing of the mouth of a river where the land is very low,
91 and at a distance of two miles, especially where at the time it is very dark. On the cross-examination Capt. Lamson states that at the time of the capture of the Teresita he thinks there was a bark, believed to be Spanish, on the same line with the Teresita, and that his officer wanted to capture her, but he thought there was so little cotton on board it was

not worth the trouble, as it was difficult to tow her out. That she was visited by his executive officer before the Teresita. It surely seems strange, if she was on the line with the bark Teresita, that she was not captured also. The district attorney admits that the Spanish bark Teresita was boarded twice, by two American men-of-war, and "was not disturbed, and no objection made against her position."

He would also state that he carefully examined the testimony of the executive officer, Atkinson, and finds it very conflicting.

Under the facts set forth the undersigned can only state that if the position of the Teresita is to be determined by the testimony submitted to him, it is his opinion that the assertions of the captain and mate, taken in preparatorio, are not shaken by any testimony adverse to it, and that for the reason above given.

ROBERT RITCHIE, *Prize Commissioner.*

92 *Hearing and submission, from minutes of March 2d.*

UNITED STATES
vers.
BARK TERESITA, &c. } No. 7791.

This cause came up this day for the purpose of hearing the report of Capt. Ritchie, prize com'r—dist. att'y for libellant, D. Augustin for captors, Geo. L. Bright and C. Dufour for claimants—when, after hearing the report now presented by said prize commissioner and argument of counsel, the court took time to advise.

Bill of exception No. 1, filed March 2d, 1864.

United States district court, eastern district of Louisiana, in prize.

THE UNITED STATES
vers.
THE BARK TERESITA, &c. } No. 7791.

Be it remembered, that on the trial of this cause the district attorney offered in evidence the testimony of Arthur H. Atkinson, and Cyprien Dufour, proctor for the owners of the bark Teresita, objected to said
93 evidence, on the ground that he had received no notice of the time and place of the taking of said testimony. The court maintained the objection, and the district attorney then offered the testimony in evidence against the cargo of the bark Teresita, and proctor for claimant of the cargo objected thereto, on the ground that unless it was receivable in evidence against the bark it could not be received against or affect the cargo. The court overruled the objection and admitted the testimony against the cargo, and the proctor for the claimants of the cargo tenders this his bill of exception for the signature of the court, after submitting it to the district attorney. The proctor for claimants of cargo had received notice of the time and place of the taking of said testimony.

E. H. DURELL, *Judge.*

Bill of exception No. 2, filed March 2d, 1864.

UNITED STATES
vers.
BARK TERESITA, &c. } In prize.

94 Be it remembered, that on the trial of this suit, after the affidavit of J. B. Benguria had been received and filed as evidence, Cyprien

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BARK TERESITA AND CARGO. } No. 7791.

I certify the within to be a true copy of the royal register of the bark Teresita, mentioned in the affidavit of Capt. Garate and offered in evidence by the claimants on the trial of this cause on 20th February, 1864.

Clerk's office, February 29th, 1864.

K. LOEW, *D'y Clk.*

89 *Bill for survey, filed March 2d, 1864.*

UNITED STATES
vers.
BARK TERESITA, &c. } No. 7791.

To survey of vessel on February the 17th, 1864, by order of court:

To G. Hollander	$10 00
Jno. M. Wyman	10 00
	20 00

Report of Captain Ritchie, prize commissioner, filed March 2d, 1864.

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
BARK TERESITA, &c. } No. 7791.

The undersigned, in pursuance of an order addressed to him by the hon. court under date the 23d inst., "to make a thorough examination of the evidence, and project upon the chart the position of the Teresita at the time of her capture," reports that after a very careful examination of the
90 testimony as received, he finds that there is no data found therein which would enable him to project upon the chart in the possession of the court the exact position of the Teresita, and that he has been therefore forced to establish it by approximate comparison of the testimony of those who depose in reference to it.

He finds, upon the evidence given before him as prize commissioner by the captain and the mate of the Spanish bark Teresita, that they both state that at the time of the capture it was dark, and that she was at anchor in Mexican waters.

He then projected her position on the chart used by the captain in navigating his vessel, and found that she was in Mexican waters.

In the testimony of Captain Lamson, of the steamer Granite City, he finds it very confused. It states that the Teresita was but a short quarter of a mile in American waters at the time of capture, distance two miles from the mouth of the river Rio Grande.

He would state, from long experience, he knows it is impossible to get a correct bearing of the mouth of a river where the land is very low,
91 and at a distance of two miles, especially where at the time it is very dark. On the cross-examination Capt. Lamson states that at the time of the capture of the Teresita he thinks there was a bark, believed to be Spanish, on the same line with the Teresita, and that his officer wanted to capture her, but he thought there was so little cotton on board it was

not worth the trouble, as it was difficult to tow her out. That she was visited by his executive officer before the Teresita. It surely seems strange, if she was on the line with the bark Teresita, that she was not captured also. The district attorney admits that the Spanish bark Teresita was boarded twice, by two American men-of-war, and "was not disturbed, and no objection made against her position."

He would also state that he carefully examined the testimony of the executive officer, Atkinson, and finds it very conflicting.

Under the facts set forth the undersigned can only state that if the position of the Teresita is to be determined by the testimony submitted to him, it is his opinion that the assertions of the captain and mate, taken in preparatorio, are not shaken by any testimony adverse to it, and that for the reason above given.

ROBERT RITCHIE, *Prize Commissioner.*

92 *Hearing and submission, from minutes of March 2d.*

UNITED STATES *vers.* BARK TERESITA, &c. } No. 7791.

This cause came up this day for the purpose of hearing the report of Capt. Ritchie, prize com'r—dist. att'y for libellant, D. Augustin for captors, Geo. L. Bright and C. Dufour for claimants—when, after hearing the report now presented by said prize commissioner and argument of counsel, the court took time to advise.

Bill of exception No. 1, *filed March* 2*d*, 1864.

United States district court, eastern district of Louisiana, in prize.

THE UNITED STATES *vers.* THE BARK TERESITA, &c. } No. 7791.

Be it remembered, that on the trial of this cause the district attorney offered in evidence the testimony of Arthur H. Atkinson, and Cyprien Dufour, proctor for the owners of the bark Teresita, objected to said
93 evidence, on the ground that he had received no notice of the time and place of the taking of said testimony. The court maintained the objection, and the district attorney then offered the testimony in evidence against the cargo of the bark Teresita, and proctor for claimant of the cargo objected thereto, on the ground that unless it was receivable in evidence against the bark it could not be received against or affect the cargo. The court overruled the objection and admitted the testimony against the cargo, and the proctor for the claimants of the cargo tenders this his bill of exception for the signature of the court, after submitting it to the district attorney. The proctor for claimants of cargo had received notice of the time and place of the taking of said testimony.

E. H. DURELL, *Judge.*

Bill of exception No. 2, *filed March* 2*d*, 1864.

UNITED STATES *vers.* BARK TERESITA, &c. } In prize.

94 Be it remembered, that on the trial of this suit, after the affidavit of J. B. Benguria had been received and filed as evidence, Cyprien

Dufour, proctor for the bark Teresita, and George L. Bright, proctor for the cargo, offered in evidence the log-book of the bark Teresita, and J. B. Benguria and Emilio R. Toribio, secretary of the Spanish consul of this city, to prove that the said log-book is the original, genuine, and true log-book of the bark Teresita; that since the arrival of the bark Teresita in this port, and up to the time of offering it in evidence, said log-book was in the custody of the Spanish consul in this city, and was deposited with him by J. B. Benguria, mate of the bark Teresita, immediately upon his arrival in this city; that it is exacted by the marine regulations of Spain to deposit the log-book and all the ship's papers with the Spanish consul, and it is customary so to do.

But the district attorney objected to the testimony offered, on the ground that said log-book had not been found on board by the captors; that the mate had continued to keep said log-book after the capture, by writing it up daily, and that its reception would open the door to frauds.

95 The court sustained the objection, and excluded the evidence, and proctors for claimants, as aforesaid, excepted to the ruling, and tender this their bill of exception for the signature of the court, after submitting it to the district attorney.

By the judge: The mate of the Teresita took possession of said log-book, and carried it away from on board said vessel, without the knowledge of the captors or of the prize commissioners, after the arrival of said vessel as prize at the port of New Orleans.

E. H. DURELL, *Judge.*

Bill of exception No. 3, *filed March* 2*nd,* 1864.

United States district court, eastern district of Louisiana.

UNITED STATES *vers.* THE BARK TERESITA, &c. } No. 7791.—In prize.

Be it remembered, that on the trial of this cause, Cyprien Dufour, proctor for the owners of the bark, and Geo. L. Bright, proctor for the cargo, objected to that part of Capt. C. W. Lamson's testimony which is in

96 the words following:

"He (the second officer) reported to me that the mouth of the river was bearing so-and so from the Teresita. * * * At the time there was no question between the officers of the Teresita and the executive officer about the bearings, * * * and, through the cook, asked him if the Teresita was not in American waters; the mate said yes."

On the ground that it was hearsay testimony, and not admissable. But the court overruled the objection, and proctors as aforesaid excepted, and tender this bill of exception for the signature of the court, after submitting it to the district attorney.

E. H. DURELL, *Judge.*

Bill of exception No. 4, *filed March* 2*nd,* 1864.

United States district court, eastern district of Louisiana.

UNITED STATES *vers.* THE BARK TERESITA, &c. } No. 7791.—In prize.

Be it remembered, that on the trial of this cause, after the court had made an order for further proof in favor of the claimants, and after Cyprien

97 Dufour, proctor for claimants, owners of the bark Teresita, and Geo. L. Bright, proctor for the claimants of the cargo, to wit, Jose San

Roman and B. Garcia & Bro., had offered in evidence the affidavits of A. Garate and J. B. Benguria, and they had been received and filed in evidence, they offered in evidence the following papers of the bark Teresita, to wit:

1. The muster roll of the ship's company, and the license of the master, mate, and of each seaman on board.
2. The owner's letter of instructions to the master.
3. The log-book.
4. The royal passport of navigation, signed by the queen of Spain; which said muster-roll, license, letter of instructions, log-book, and royal passport are now hereto annexed, and made a part of this bill of exception.

And the said claimants at the same time offered to prove by A. Garate, J. B. Benguria, and Emilio Toribio, secretary of the Spanish consul of this city, that these and those already filed when the cause first came up for trial were all the papers of the bark Teresita, and are genuine.

98 But the district attorney objected to the reception of such papers, documents, and testimony, on the ground that the said papers, books, and documents were not found on board at the time of the capture, and their reception would open the door to frauds; that the mate had continued to make entries in the log-book subsequent to the capture.

The court maintained the objections, excluded the evidence, and proctors, as aforesaid, excepted to the ruling of the court, and tender this their bill of exceptions for the signature of this court, after submitting it to the district attorney.

By the judge: The mate removed the log-book from the prize after her arrival at the port of New Orleans, and did so without the knowledge of the captors or prize commissioner.

E. H. DURELL, *Judge.*

99 *Order with regard to seamen's passes, from minutes of March 21st, 1864.*

UNITED STATES *vers.* BARK TERESITA, &C. } No. 7791.

On motion of Geo. L. Bright, proctor for the claimants of the cargo, and on showing that the licenses of the seamen of the bark Teresita are filed in evidence, and that the said seamen require their respective licenses, it is ordered that the clerk of this court make certified copies of the said licenses, that said copies be filed in the place of the originals, and that the originals be delivered to the seamen.

Reasons for judgment, filed March 30th, 1864.

UNITED STATES *vers.* BARK TERESITA, ETC., AND CARGO. } No. 7791.

The Teresita was captured on the 16th of November, 1863, at about 6 p. m., while lying at anchor in the roadstead of the Rio Grande. She
100 was captured by the U S. st'r Granite City, upon the supposition that she was lying in interdicted waters. At the time of her capture the Teresita had on board two hundred and fifty-eight bales of cotton, being the larger portion of her intended outward-bound cargo.

A Spanish vessel, she had sailed from Havana, loaded with sugars and raisins, on a voyage to Matamoras and back, and had completed one half of the voyage when taken. The delivery of the outward cargo had been made, the reception of the inward cargo was nearly complete, when the captain of

the Granite City, entering the roadstead for the first time in his life, deemed it to be his duty to seize her as lawful prize. He says that he seized her because he believed her to be in American waters; that he determined the position of the dividing line between the waters of Mexico and the waters of the United States, by watching the movements of lighters going in and coming out of the mouth of the Rio Grande, and taking the bearing by compass. The result, in his opinion, placed the Teresita a short one fourth of a mile north of the line. Capt. Lamson further says that he believed
101 the Teresita to have been in American waters when taken, because he saw an English frigate lying at anchor south of the Teresita, and all other English vessels then in the roadstead lying south of the frigate, thus, as a seaman, drawing the conclusion that the frigate was at anchor on the line for the purpose of showing other vessels where the line was.

Arthur H. Atkinson, the executive officer of the Granite City, testifies to the same facts, and draws therefrom the same conclusions. He took the bearings by compass, from lighters going in and coming out of the Rio Grande. Saw the English frigate at anchor, and determined thereby the line of division.

The data and conclusions upon which Capt. Lamson based his action in the seizure of the Teresita are to my mind very unsatisfactory. When we consider that he had never visited the roadstead of the Rio Grande before, that he made the seizure within one hour after his arrival, and that he determined the line of division by the uncertain movements of lighters passing over the bar at the mouth of the river, in connection with the fact that an English frigate lay at anchor some one-fourth of a mile to the south
102 of the Teresita, we cannot say that he acted with the certainty of knowledge. It is admitted that the day before the Teresita was captured, she was visited by two gunboats of the United States blockading squadron, and that she was not disturbed; neither was any objection made as to her position.

The captain of the Teresita, in answer to the interrogatories in preparatorio, says that the bark when captured was in Mexican waters. As he was not present at the capture, he must mean that she lay in Mexican waters at the time of his going ashore, and that he was ignorant of her having subsequently changed her position. The steveedore found and detained on board, says that the vessel had moved and drifted, from bad weather, from her first position to the spot where she was taken, but is unable to say whether her last position placed her in American or Mexican waters. The mate says that at the time of seizure he was in Mexican waters. To counteract this statement of the mate, evidence is given under the order for further proof of a conversation held between the mate and Capt. Lamson, through
103 the medium of an interpreter, subsequent to the capture. The mate, it is conceded, could not speak the English, neither could Capt. Lamson speak the Spanish language; the cook of the Granite City was therefore called up to interpret between them.

A man who fills the office of cook aboard a merchant vessel or a vessel-of-war, cannot be supposed to be a man skilled in phylology, or know much of the meaning and force of words. I am not disposed, therefore, to give great weight to his interpretations. The executive officer of the Granite City says that he boarded the Teresita, and that the mate told him, in a conversation held there, substantially what he afterwards told the captain, through his interpreter, the cook. But the executive officer could not speak the Spanish language; otherwise, his knowledge must have been called in requisition, instead of the uncertain leaning of the cook, as translator of the conversation held between Capt. Lamson and the mate, and he has not told us who acted as interpreter on board of the Teresita.

But supposing the cook to have been a correct translator, the statement of the mate is only to the effect that "he had first anchored in Mexi-
104 can waters, and had drifted to his then present position, his anchor and chain being too light; that he had not moved from that position because two American men-of war had seen him two days before in the same place, and did not disturb him, and therefore he thought he was all right; and further, that his vessel was loaded, and was going off the next day.

There is here no exhibition of an intention to break a blockade. The Teresita was moved to the position she occupied at the time of capture, according to the testimony of the mate, as interpreted by the cook, with no will of his own, but by the force of the winds and of the currents.

She was loaded with a cargo outward-bound, and by no means fitted for entry into any blockaded port.

Under the proof in this case, I cannot do otherwise than order the vessel and cargo to be restored to claimants.

The papers of the Teresita had been carried to Matamoras by her captain, and deposited with the Spanish consul there, previous to her seizure. This was the ordinary and proper disposition of the papers, the vessel be-
105 ing in port. But after the capture, the papers should have been produced here through some other medium than the hands of the captain. Were the captain, as in this case, allowed to take possession of the ship's papers, and hold them for months, to be produced only on the day of trial, a door would be opened for the commission of frauds which no court could possibly detect. For this reason I rejected the vessel's papers, when offered in evidence by claimants.

Let the vessel and cargo be restored to claimants.

E. H. D., *Judge.*

Judgment.

For the reasons assigned in the written opinion of the court, this day delivered and on file, it is ordered, adjudged, and decreed that the vessel and cargo be restored to the claimants.

Judgment rendered March 30th, 1864.

Judgment signed April 5th, 1864.

E. H. DURELL, *Judge.*

106 *Petition for appeal, filed April 21st, 1864.*

United States dist. court, eastern dist. of Louisiana.

UNITED STATES
vs.
BARK TERESITA AND CARGO.

To the Hon. E. H. Durell, judge of the United States district court, eastern district of Louisiana:

The petition of Rufus Waples, United States attorney, in the name and behalf of the United States of America, libellants herein, respectfully represents that judgment was rendered by this hon. court, in the above-entitled case, on the 5th day of April, 1864, in favor of the claimants, and against the libellant; that the property adjudicated to the claimants in this case, to wit, the bark Teresita, her tackle, &c., and cargo, exceeds in value the sum of two thousand dollars; that he, the said libellant, in behalf as aforesaid, feels aggrieved by the said judgment, and is informed that there error therein, and he is desirous of appealing to the Supreme Court.

107 Wherefore he prays this hon. court to grant him a suspensive appeal from said judgment, the same to operate as a supersedeas, to the

hon. the Supreme Court of the United States, returnable the first Monday of December next.

RUFUS WAPLES,
U. S. dist. attorney, eastern dist. of Louisiana.

A suspensive appeal, to operate as a supersedeas, is allowed in this case as prayed for, returnable to the Supreme Court of the United States the first Monday of December next.

New Orleans, April 22d, 1864.

E. H. DURELL, *Judge.*

108 *Prize list of the U. S. st'r Granite City, filed April 21st, 1864.*

No.		per annum.
1.	Chas. W. Lamson, act. master comd'g	$1,500
2	A. H. Atkinson, " "	1,500
3.	E. C. Vermenlen, ass't surgeon	1,250
4.	John Read, act'g ass't paymaster	1,300
5.	S. R Tyrrell, act'g ensign	1,200
6.	A H. Berry, " "	1,200
7.	Stewart Green, act'g 2d ass't engineer	1,000
8.	D. M. Shryer, " 3d " "	750
9.	Jno. H. Rollings, " 3d " "	750
10.	R. H. Green, " 3d " "	750
		per month.
12.	David Hull, act'g master's mate	40
13.	Thos. E. Ashmead, act'g master's mate	40
14.	Thos. R. Marshall, " " "	40
16.	H'y H. Fanning, act'g paymaster's stew'd	30
1.	Henry Spencer, boatswain's mate	25
2.	Wm. Caddle, " "	25
3.	Edw. Washburne, master arms	25
4.	Franklin Pierce, gunner's mate	25
5.	Jno. Hayes, qr. gunner	20
6.	Theo. Simpson, qr. master	24
7.	Jno. W. Tindall, " "	24
8.	Jno. Jacobs, capt. f. castle	24
9.	Dougal McLeod, capt. aft g'd	20
10.	Jno. Pembroke, coxswain	24
	11. Vernon Lewis, coxswain	24
100	12. Henry Donaldson, carpenter's mate	25
	13. Rob't Morrison, capt. hold	20
14.	Jas. Milligan, capt's stew'd	20
15.	Lewis Bartessi, officers' stew'd	20
16.	Jno. Seeley, capt's cook	20
18.	Jno. Meyers, ship's cook	24
39.	Ira T. Loucks, officers' cook	20
19.	Jno. Hall, seaman	18
20.	Jno. Hancock, "	....
22.	Edwin Stephens, "	....
23.	Jno. Scott, "	....
24.	Chas. Smith, "	....
27.	Jos. Johnson, "	....
29.	Henry Wilson, "	....
26.	Geo Davis, "	....
21.	Pat'k Reed, "	....
25.	Pat'k Egan, "	....

		per month.
28.	Henry Layton, ord. seaman	$14
34.	Henry Hudson, "	....
31.	Eph. W. Rogers, "	....
33.	Wm. Bradbrooke, "	....
35.	Jas. Hunter, "	....
36.	Thos. Porter, landsman	12
73.	Jno. Triplett, "	....
40.	Jos. Schoeninger, "	....
41.	Jno. Kelly, "	....
42.	Jos. Willon, "	....
	43. Jno McGowan, landsman	12
110	45. Wm. Fitzpatrick, "	....
	46. Cato S. Robinson, "	....
47.	Henry Comril, landsman	....
38.	H'y Turner, "	....
44.	Rob't Johnson, "	....
50.	Jno. McRea, "	....
48.	Wm. H. Hayden, 1st c boy	10
49.	Jas. W. Ford, "	....
51.	Jno. Riley, "	....
53.	Leonard J. Edwards, 2d c. boy	9
54.	Jas. Nugent, "	....
52.	Lawrence Hardy, "	....
56.	Wm. Dentz, 1st. c. fireman	30
57.	Matthew Leonard, "	....
58.	Wm. Richardson, "	....
63.	Jos. Laycock, "	....
64.	Jas Rogers, "	....
67.	Jas. Conners, "	....
59.	Jno. Lentz, 2d c. fireman	25
60.	Jas. Walsh, "	....
61.	Martin Hopkins, "	....
62.	Michael McNamara, "	....
65.	Jno. Gogin, C. H.	18
66.	Geo. Hayes, "	....
68.	Jno. Devine, "	....
69.	Timothy Murray, "	....
70.	Richard Casey, "	....
	71. Edw'd McCullen, C. H.	....
111	72. Jno. Forrest, "	18
	73. Jno. G. Wilson, surgeon's st'd	20
94.	Hiram E. St. John, yeoman	24

JOHN READ, *A. A. Paymaster.*

Approved.

C. W. LAMSON, *Com'd'g.*

U. S. St'r Granite City,
Pass Cavallo, Texas, Dec. 21st, 1863.

Sir: I have the honor to forward a correct list of officers and crew attached to this steamer at the time of the capture of the barque Teresita, off the Rio Grande, November 16th, 1863. The list before sent did not include a prize crew absent at the time of capture, but since returned.

Very respectfully, your ob't servant,

JOHN READ, *A. A. Paymaster.*

To the Hon. Judge *of the U. S. Dist. Court, New Orleans, La.*

113 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BARK TERESITA AND CARGO. } No. 7991.

The United States of America to the officers and crew of the U. S st'r Granite City, claiming to be the captors in this case, greeting:

You are hereby cited and admonished to be and appear before a Supreme Court of the United States to be holden in the city of Washington, District of Columbia, on the first Monday of December next, to answer the appeal taken by the United States of America, libellants in this cause, and that you show cause, then and there, if any there be, why the judgment rendered against the said United States on the 3d March, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 23d day of April, in the year of our Lord 1864, and the 88th of the American independence.

E. H. DURELL, *Judge.*

114 Rec'd April 23d, 1864, and on the 25th of April, 1864, served a copy of the within citation of appeal on D. Augustin personally in the city of New Orleans.

New Orleans, April 26th, 1864.

M. EGAN, *D'y U. S. Marshal.*

115 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BARK TERESITA AND CARGO. } No. 7791.

The United States of America to Rafael Madraza, claimant of the vessel, through his ag't, Miguel Zulaica, greeting:

You are hereby admonished to be and appear before a Supreme Court of the United States, to be holden in the city of Washington, District of Columbia, on the first Monday of December next, to answer the appeal taken by the United States of America, libellants in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said United States on 30th March, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H Durell, judge, this 23d day of April, in the year of our Lord 1864, and the 88th of the American independence.

E. H. DURELL, *Judge.*

116 Received April 23d, 1864, and on the 25th of April, 1864, served a copy of the within citation of appeal on C. Dufour, esq., personally, in the city of New Orleans.

New Orleans, April 26th, 1864.

M. EGAN, *D'y U. S. Marshal.*

117 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BARK TERESITA AND CARGO. } No. 7791.

The United States of America to Jose San Roman, claimant of 251 bales cotton marked [R], part of cargo, greeting:

You are hereby cited and admonished to be and appear before a Supreme Court of the United States, to be holden in the city of Washington, District of Columbia, on the first Monday of December next, to answer the appeal taken by the United States of America, libellants in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said United States, on 30th March, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 23d day of April, in the year of our Lord 1864, and the 88th of the American independence.

E. H. DURELL, *Judge.*

118 Rec'd April 23d, 1864, and on the 25th of April, 1864, served a copy of the within citation of appeal on G. L. Bright, esq., personally, in the city of New Orleans.

New Orleans, April 26th, 1864.

M. EGAN, *D'y U. S. Marshal.*

119 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
BARK TERESITA AND CARGO. } No. 7791.

The United States of America to B. Garcia & Bro., claimant of 7 bales cotton marked BGH, part of the cargo, greeting:

You are hereby cited and admonished, to be and appear before a Supreme Court of the United States, to be holden in the city of Washington, District of Columbia, on the first Monday of December next, to answer the appeal taken by the United States of America, libellants in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said United States on 30th March, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 23d day of April, in the year of our Lord 1864, and the 88th of the American independence.

E. H. DURELL, *Judge.*

120 Rec'd April 23d, 1864, and on the 25th of April, 1864, served a copy of the within citation of appeal on G. L. Bright, esq., personally, in the city of New Orleans.

New Orleans, April 26, 1864.

M. EGAN, *D'y U. S. Marshal.*

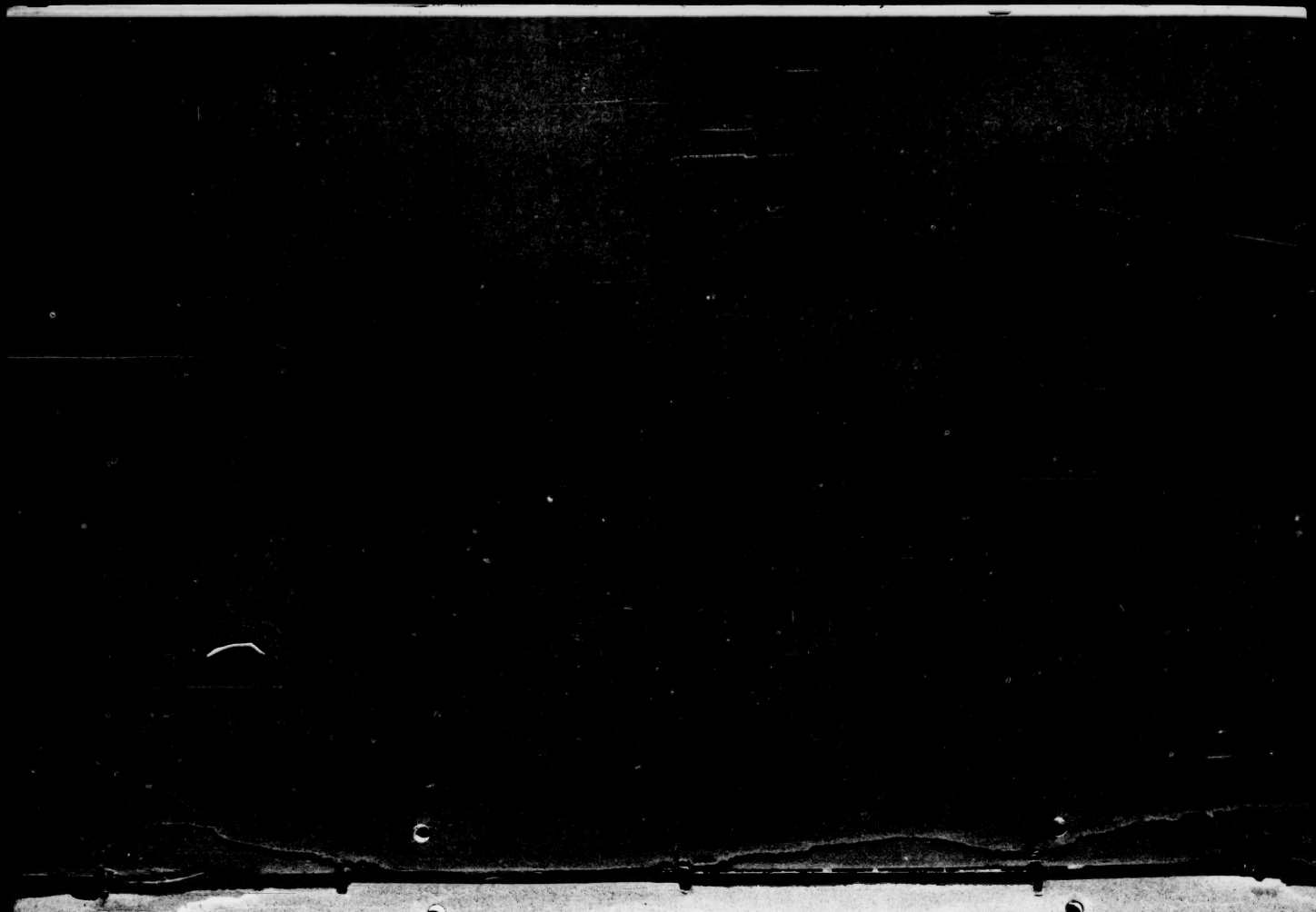
121 District court of the United States, eastern district of Louisiana.

I certify that the foregoing 120 pages do contain and form a full and correct transcript of the original record, and of all the proceedings had, as well as of all the documents filed and evidence adduced in the trial of the cause wherein the United States are libellants, and the owners of the bark Teresita and cargo are claimants, No. 7791 of the docket.

In testimony whereof, I hereto set my hand and seal of court, [SEAL] at New Orleans, this 21st day of June, A. D. 1864, and the 88th year of the American independence.

K. LOEW, *D'y Cl'k.*

Filed November 19, 1864.



In the Supreme Court of the United States.

DECEMBER TERM, 1866.

UNITED STATES
vs.
THE BARK TERESITA and cargo. } No. 102.

Appeal from the district court for the eastern district of Louisiana.

FIRST.

The Teresita was a Spanish vessel, owned in Havana, captured while at anchor off the Rio Grande, with a cargo of cotton on board shipped by two parties, Mexican and Spanish subjects, purporting to reside at Matamoras, for Havana. The cargo is claimed by the consignors—251 bales by Jose San Roman, "a merchant residing at Matamoras," (Rec., p. 5,) and 7 bales by B. Garcia & Bro., "Mexican subjects residing in Matamoras," (Rec., p. 4.) The claims are made by the agents of those parties respectively, at New Orleans. The master swears that they were the owners of the cargo, (Rec., p. 13.) The outward cargo to Matamoras appears to have been of an innocent character—sugar and raisins. The master, although he swears to the ownership of the cargo, does not state that the homeward-bound cargo of cotton was brought from Matamoras.

SECOND.

The evidence as to the place of capture appears to preponderate in favor of the view of the district judge and the present position of the counsel for the claimants; but it is believed by the counsel for the government and captors, as contended in the cases of the Sir William Peel, the Dashing Wave, and others of this class of cases, that private claimants are not entitled to litigate the question of territorial immunity in the prize court, and that, therefore, the question does not legally arise upon the existing claims.

THIRD.

The court cannot and will not shut its eyes to the facts already developed in regard to the character and methods of the system of traffic in cotton which prevailed at Matamoras at the time of this capture. That the most of this cotton never had any commercial *situs* at Matamoras, and, even if landed there before shipment on board of the vessels lying off the Rio Grande, never became incorporated into the common stock of the port; that the purchases of such cotton were made in Texas from rebel enemies who were under all the disabilities of the confiscation act of 1862, and totally incapable of transferring any title to property as against the United States; and that, in many instances, the shipments were really on account of hostile persons, though ostensibly on account of neutrals residing at Matamoras for the more convenient prosecution of this unlawful and demoralizing business—all this abundantly appears from the records in other cases before the court.

FOURTH.

In view of these facts it is incumbent, as we respectfully contend, upon the claimants, in every case of property taken in this "Matamoras trade," to give satisfactory evidence that they acquired the property after it had become incorporated into the common stock of the neutral port, and that it was

proceeding, at the time of capture, to the port of intended destination solely on neutral account; and this with the view of establishing the exceptional lawfulness and innocence of their particular transactions.

FIFTH.

In every case where the facts on which the legality of the trade in question depends do not clearly appear in the preparatory proofs and papers, the court, we respectfully contend, should make an order upon the claimants for *further* proof as to those facts, unless the claimants are precluded from adducing such proof by the rules which prevail in a prize court on that subject; and final adjudication of the claims should be postponed until the necessary proof on the points mentioned is adduced.

SIXTH.

The present claimants do not appear to have forfeited right to give further proof, and it is submitted that an order to that end should be made by this court.

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IN THE

SUPREME COURT

OF THE UNITED STATES OF AMERICA.

THE UNITED STATES
agst.
THE BARK "TERESITA" AND CARGO.

Brief and Points in behalf of the Barque.

A libel was filed by the attorney of the United States for the Eastern District of Louisiana, on the sixteenth day of December, 1863, praying for the condemnation and forfeiture of the Spanish barque "Teresita" and cargo. The latter was very valuable, consisting of 258 bales of cotton.

It is alleged in the libel that the capture was effected on or about the 16th day of November, 1863, and that the vessel and cargo "were, at the time of such capture, and are, rightfully subject to such capture, and were and are lawful prize, and as such should be condemned and forfeited to the use of the libellants."

The libel does not state where the vessel was lying when captured, nor for what reason nor upon what ground she was seized.

It appears from the testimony that the barque was captured on the 16th day of November, at about six o'clock in the evening, off the mouth of the Rio Grande, for an alleged violation of the rules governing the block-

ade, instituted by the United States (fo. 15, p. 16); that the captain was not on board at the time of the capture, but had gone ashore and carried the papers belonging to the vessel with him, to the Spanish Consul, and those relating to the cargo to the consignors at Matamoras (p. 14, fo. 9. 32). All the papers relating to the vessel were entirely true and fair (fo. 42). They were offered in evidence on the trial by the claimants, but were rejected on the ground that after the capture the papers should have been produced in Court through some other medium than the hands of the captain. (Judge's reasons for Judgment, p. 35, fo. 105.) The sole ground upon which condemnation was asked seems to be that she (The Teresita) was in American waters at the time of her capture (p. 23, fo. 67): on this, the only question of fact in dispute, the testimony to the effect that she was in Mexican, and not in American, waters seems conclusive; in character and weight and probability, it is submitted that the evidence preponderated to a very great degree over that furnished on the part of the libellants. As to the following facts there is no dispute:

1. The Teresita was at anchor when captured, and had been there (off the mouth of the Rio Grande) since she had arrived direct from the Havana, about one month and a half previous (p. 9, fo. 25, int. 36).

2. She had moved and drifted on account of bad weather to the spot where she lay at anchor when taken (p. 8, fo. 22, also fo. 68 to 69).

3. The vessel had originally been anchored in Mexican waters (p. 21, fo. 63).

4. There was another vessel nearly on the same line with the "Teresita." She was not taken *because she had but very little cotton on board*, and she could hardly have been towed out (fo. 66).

5. Two American men-of-war had seen the "Teresita" in the same place two days before and did not disturb him (the mate), and therefore he thought he was all right (fo. 68, p. 23, also p. 26, fo. 78). These vessels (two gunboats of the blockading squadron), made no objection to her position, and did not disturb her (p. 78).

POINTS.

I.—The first question to be considered is a question of fact, *viz*, was the captured vessel in American or Mexican (*i. e.*, neutral) waters at the time of her capture.

On behalf of the claimants we have the following testimony:

A. The positive testimony of the mate, who swears that she was "at anchor in Mexican waters about five miles from the shore" (fo. 32).

B. The testimony of the captain, who swears that the vessel was in Mexican waters, and that he does not know why she was captured (fo. 36, also fo. 79).

C. The admission that "the harbor-master of Matamoras would testify that the "Teresita," at the time of her capture, was in Mexican waters."

All this testimony is based upon *knowledge*, and not upon suppositions, inferences, or admissions made in a foreign language, and translated by a person of doubtful ability, but of undoubted interest in fastening guilt upon the captured vessel.

On the other hand we have,

A. The testimony of Captain Lamson, which is founded entirely upon report (fo. 62), and the "supposition" that a British frigate was lying at anchor

on the line for the purpose of showing other vessels where the line was (p. 64). Evidently Captain Lamson had great faith in the accuracy with which the frigate in question had been anchored, for he admits that the "Teresita" "was a short quarter of a mile" north of that line (fo. 64).

B. The testimony of John Read, who testified that he "should say" that the "Teresita" was about "half a mile in American waters," *judging from the position of the English frigate* (fo. 73).

C. The testimony of Mr. Atkinson, the executive officer of the "Granite City." He enters into elaborate calculations to prove that the "Teresita" *must have been* nearer to one-half than one-quarter of a mile in American waters when captured. This witness was guided in ascertaining the channel of the river "*by seeing the lighters and schooners go in and out.*" How long he had watched the lighters and schooners does not appear, but it *does* appear that the "Granite City" had only arrived there *an hour or two* before the capture of the vessel (fo. 65, p. 22).

On this wholly hypothetical, unreliable, and uncertain testimony, it is confidently submitted that the vessel could not be convicted, even were the testimony of the claimants much less positive and direct than it is. But as if to remove all doubt that might by any possibility exist, the prize commissioner, appointed by the Court "to make a thorough examination of the evidence, to project upon a map the position of the "Teresita" at the time of her capture, etc., etc., reports the following facts:

1. There are no data found in the testimony which could enable him to project upon the chart in the possession of the Court the exact position of the "Teresita."

2. That he projected her position on the chart used by the captain in navigating his vessel, and found that she was in Mexican waters.

3. In the testimony of Captain Lamson of the steamer "Granite City" he finds it (the position) *very confused.*

4. He carefully examined the testimony of the executive officer (Atkinson), "and finds it very conflicting" (pp. 30 and 31, fo. 90 and 91).

II.—But weak and insufficient as the case appears from the above abstract and comparison of the proofs, what little strength it may appear to have must be diminished to the extent of Executive Officer Atkinson's testimony. This was rejected upon the objection of the counsel for the barque, and as no exception was taken to the correctness of the Judge's ruling, the validity of the capture must rest upon the "suppositions" of Captain Lamson, and the inference drawn by Mr. Read from the fact of an English frigate being at anchor on what he took to be *the dividing line*, and the real or supposed admissions of the mate.

III.—As to the admissions of the mate.

Captain Lamson states (in his letter of Nov. 18th, 1863, at fo. 43) that the "'Teresita' was at anchor with the mouth of the river bearing W.S.W. in American waters, *as the mate in charge of her freely admitted;* also that he could have changed her position into neutral waters, *if he had been so disposed*, as the wind had been favorable for so doing for two days."

This broad statement is somewhat qualified when Captain Samson proceeds to particularize, in his sworn testimony: "*I sent for my cook* to interpret the Spanish language, and *through the cook* asked him if the 'Teresita' was not in American waters. The mate said yes. . . . . The mate said he had anchored in Mexican waters previously, *but his vessel had drifted to the place where she was taken:* that his anchor and chain were too light. I then asked him if the wind had not been favorable to him to go back into Mexican or neutral waters. He shrugged his shoulders and replied *he did not know;* that the captain was ashore, and he could not remove the 'Teresita' from her position without the captain's orders. The mate told me that he had two opportunities to go back into Mexican waters, if he had felt disposed to do so" (p. 21, fo. 63).

John Seely, the culinary polyglot on whom Captain Lamson relied as a medium of communication between himself and the mate, deposes that the mate said that the vessel was in American waters when captured. This he asked upon orders received from Captain Lamson. The mate said he did not move from his position because two American men-of-war had seen him in the same place two days before, and did not disturb him, *and, therefore, he thought that he was all right* (p. 23, fo. 68).

The mate, on the other hand, testifies: "I do not know why the capture was made, except that the boarding officer told me he had taken us *because he considered the vessel to have been in American waters*" (p. 10, top of page). He also swears, in answer to the 19th interrogatory (fo. 31), that the vessel was at anchor in Mexican waters when she was captured. It is respectfully submitted that there is nothing in this testimony to assist the libellants.

A. Admissions from an excited witness, who is earnestly imploring the captors to release his vessel (fo. 68, testimony of Seely), and who might readily

wish to avoid discussion where he thought he could obtain mercy, are, in any event, to be viewed with distrust, and scrutinized with caution.

The Fortuna, 5 Rob. Adm. Rep.

B. The channel of communication, moreover, was not of such a character as to inspire confidence, not only, as remarked the Judge below, "because a man who fills the office of cook aboard a merchant vessel, or a vessel of war, cannot be supposed to be a man skilled in philology, or know much of the meaning of words," but because he (the cook) was strongly interested in coloring the language of the mate. He is really one of the parties in interest, and entitled to a share in the spoils, should the Court hold that the "Teresita" must be condemned; when, therefore, to the "uncertain learning of the cook" we add his very certain interest, it is hard to avoid the conclusion arrived at by both the Judge (fo. 103) and the Prize Commissioner (fo. 90 and 91).

C. Allowing, however, that the mate did use precisely the language imputed to him, it must be borne in mind that when sworn as a witness, he testifies positively that his vessel was in Mexican waters (fo. 32), while, according to the cook himself, "he thought he was all right" (fo. 68). Following the usual rule of construction of testimony, that is, endeavoring to reconcile whatever may be contradictory, we find no necessity for charging the mate with wilful perjury or bad faith. Upon being informed that his vessel was captured, *for being in American waters* he conceded the point, either in the belief that so important a step could not be taken without *full certainty* on the part of the captors that his ship was in the wrong, or because he did not think it expedient to raise any point of dispute. Either supposition is natural, plausible, and in accordance with general principles of human conduct under similar circumstances.

IV.—If the admission of the mate is taken at all, we must take it as a whole. It then appears in the case that if the "Teresita" was in American waters, it was the result of an agency beyond the control of her officer and men; "the mate said he had anchored in Mexican waters previously, but his vessel had drifted to the place where she was taken; that his anchor and chain were too light; that the captain was ashore, and he could not remove the 'Teresita' from her position without the captain's orders" (fo. 63). He thought there was no harm in the place where he was" (fo. 70). It is clear, therefore,

1. That the vessel was originally anchored in Mexican waters.

2. That she drifted from Mexican waters to the point where she was at the time of her capture without the interference of any human agency. Hence,

3. That if there was any violation of "the rules governing the blockade instituted by the United States Government," there was no intent to violate such rules.

V.—*The intent* of the parties is a very important element in determining cases of this character. There must not only be some *act* of violation, but an intention to consummate the offence of violating the blockade. This rule is constantly applied, and is so familiar as scarcely to need illustration.

Thus, it has been held to be no violation of a blockade where a neutral owner, without knowledge of the fact, sends his vessel to the blockaded port, if the master, *bona*

fide, changes his course for another port on information before capture.

The "Imena," 3 Rob., 169.

Want of provisions pleaded as an excuse.

The "Fortuna," 5 Rob., 27.

Stress of weather.

The "Hurtige Hane," 2 Rob., 124.

To ascertain the land.

The "Adonis," 5 Rob., 256.

Intoxication of the master.

The "Shepherdess," 5 Rob., 262.

The misinformation of foreign ministers.

The "Twee Gebroedero," 3 Rob., 336.

As to questions of blockade in relation to rivers flowing through conterminous States, see same case, 3 Rob., 336.

In the last cited case Sir William Scott uses the following apt and pertinent language:

"Upon the question so proposed, the first fact to be determined is the place where the captured ship lay; whether she was actually stationed within those portions of land and water, or of something between water and land, which are considered to be within the limits of the Prussian territory. On this point I am inclined to think, on an inspection of the charts, and on hearing what has been urged, that she was lying within the limits to which neutral immunity is usually conceded. She was lying in the eastern branch of the Ems, within what may, I think, be considered as a distance of three miles at most from East Friedland. *An exact measure cannot be easily obtained, but in a case of this nature in which the Court would not willingly act with an unfavorable minuteness towards a neutral State, it will be disposed to calculate the distance very liberally.* . . . . I am of opinion that the ship was lying

within those limits in which all direct hostile operations are by the law of nations forbidden to be exercised." Vessel restored to claimant.

In the case of the "Fortuna," proceeded against for violating the blockade of the "Weser," where unfavorable winds were alleged as an excuse, the same distinguished Judge used the following language:

"This (the prevalence of unfavorable winds) is a fact that may admit of specific evidence, and, therefore, I shall admit affidavits to be offered on that point. In some late cases I have seen enough to induce me *not to admit* affidavits on *mere matters of conversation asserted to have passed between the parties at the time of the capture.* All that is offered from such sources is generally represented so *vaguely and with so much fluctuation* as to enable the Court from extracting any precise information from it." The "vagueness" and "fluctuation" with which the mate's admissions are reported afford a very strong commentary on the propriety of the rule adopted by Sir William Scott.

In the "Hurtige Hane" (2 Rob., 104) the vessel was arrested in the very act of entering the blockaded port. "I will not say that cases of necessity may not occur that would afford a sufficient justification, and I add that if the party can show that they were under any great necessity, and that for four or five days before they could get into no other port but the Texel, *I would certainly admit such an excuse, so supported.*"

VI.—The question of *intent* is farther made clear by the character of the cargo. Buying cotton at Matamoras for the purpose of running the blockade, and carrying it into a blockaded region where it was worth a small fraction of what it sold for outside of that region, would constitute a novel species of speculation. Indeed, we believe that there has been no claim of any such intention on the part of the barque; if she is condemned at all it must be

for committing an unintentional offence, provided such a thing be known to the jurisprudence governing this class of cases.

VII.—If we are correct as to the question of *intent*, we may concede, for the sake of the argument, that the vessel was "a short quarter of a mile" beyond the line, although this is by no means proven. For not only does the great bulk of reported cases rest almost entirely upon the sole question of intent, but the proclamation of the President of the United States clearly provides that the *intent* and the act must concur. The language used is as follows:

"If, therefore, *with a view to violate such blockade*, a vessel shall approach or shall attempt to leave, etc., etc." (vol. 12, p. 1259 of Stat. at Large); can it reasonably be argued that there was any *view to violate* the blockade instituted by the United States?

VIII.—There are some peculiar features that are worth observing in this case:

1. The "Teresita" is captured by the "Granite City" immediately upon the arrival of the latter, and the seizure is based entirely upon the relative position of the "Teresita" and an English frigate supposed to be *on the line.*

2. Absolute reliance is placed by the captors on the supposed object of the British frigate in anchoring where she did, the accuracy with which she measured distances, and the precision with which she determined upon the exact position of an imaginary line. So absolute was this faith that it does not

seem to have occurred to Captain Lamson, or his executive officer, that by mistake or intentionally the English frigate might have stationed herself "one short quarter of a mile" on the safe side of the line. The amount of confidence so displayed being the more remarkable from the fact that "it is impossible to get a correct bearing of the mouth of a river where the land is very low, and at a distance of two miles, especially when at the time it is very dark."

3. The entire disregard of the same officers for the opinion of two American men-of-war, that had found no fault with the "Teresita," although they had seen her and visited her.

4. The curious circumstance that a Spanish barque, on the same line with the "Teresita," was visited by the executive officer of the Granite City, but that she was not captured *because she had very little cotton on board*, and could have been hardly towed out (fo. 66).

5. The fact that the master of the captured vessel was anxious that his papers should be produced and read, while the captors were equally anxious that they should be excluded.

IX. To constitute a violation of the blockade, *three things must be proved:* 1st. An actual blockade; 2d. Knowledge of the party supposed to have offended; 3d. Some *act of violation*, either by going in or coming out with a cargo laden after the commencement of blockade.

The "Betsey," Rob. Adm. Rep., vol. 1, p. 92.

Wheaton's Int. Law, p. 827, of 2d Annotated Ed.

The third essential pre-requisite to a condemnation is entirely wanting here, as the only alleged violation is proven to have been the result of accident, not of design. An act is defined to be "a thing done; the deed of an individual." Volition is a necessary ingredient to constitute a criminal act. The same rules applicable to the trial of criminal cases are applicable here. The principle is thus laid down by Halleck:

"The breach of a blockade is viewed, *in all cases, as a criminal act: this necessarily implies a criminal intent, and to constitute such intent* a knowledge of the existence of the blockade *and an intention to violate it are indispensable.*"

Halleck on International Law and Law of Blockade, Chap. XXIII.

Where in this case was the "criminal intent?" Clearly not with Captain d'Garate, for if the vessel ever touched American waters, it was during his absence and without his knowledge or procurement. Not with the mate, for he believed himself "all right" and had been allowed to remain where he was by two American men-of-war. Not with the owners of the cargo, for the proverbial folly of sending coals to Newcastle would be wisdom compared to the act of sending cotton, at that time, into the rebellious states. Nor can it be said that there was guilty negligence on the part of the "Teresita."

A. There is no proof that she could have been removed before capture, other than the vague reports of the mate's supposed admissions.

B. The mate, having been allowed by two American men-of-war to remain where he was, had a right to believe (as he swears that he did believe), "that he was all right."

C. The captain had gone ashore to perfect his clearance, before the vessel drifted from the spot

where he had anchored her. As she was about sailing, the fact that the mate did not take the responsibility of moving, under all the circumstances is quite natural, and his conduct would have been reasonable even had he supposed that he was in American waters. It is not to be imputed to him as a reproach, that he was ignorant that the fact of his having a large quantity of cotton on board made him liable to seizure, while another vessel on the same line, but less richly freighted, could remain unmolested.

D. Conceding for one moment that captain Lamson was right in his supposition that the "Teresita" was a short quarter of a mile in American waters; conceding, moreover, that the mate discovered this, and feared to take the responsibility of moving from his then place of anchorage until his captain's return—was it not legitimate for him to suppose that American men-of-war "would not willingly act with an unfavorable minuteness towards a neutral State?" After the conduct of the two gunboats, he was certainly entitled to believe that they would all "be disposed to calculate the distance very liberally."

The Fortuna's case.

X. In any view of the case, it is respectfully submitted that the "Teresita" was entitled to be discharged, and that the judgment of the learned Justice below was correct.

Whether we consider the vessel to have been in Mexican waters (as proved by the evidence), or as having drifted into American waters, there was an entire absence of any criminal intent. The whole proof shows beyond any question that the idea of violating the rules of the blockade, as established by law, never entered the minds

of master or mate. These rules were not framed to work with oppressive hardship on vessels whose only offences were valuable cargoes and anchors too light for a heavy gale. The decision below is supported by the law, the evidence, and those principles of fairness and equity, which alone make the peculiar character of prize tribunals endurable to neutrals. The suppositions and inferences and close computations of interested parties are on a par, in point of value, with reports of what excited witnesses may say in an unintelligible language. Neither of these should be allowed to prevail against direct proof, the probabilities of the case, and an honest intent.

The decree below should therefore be sustained, and judgment for the claimants affirmed.

F. R. COUDERT,

Atty. and Counsel ~~Proctor~~ for claimant of vessel.